

**CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 25**

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE, WASHINGTON, ADOPTING
BY REFERENCE THE CITY OF SPOKANE PENAL CODE, TITLE 10, DIVISION I,
EXCEPT CERTAIN SECTIONS AS THE INTERIM CRIMINAL CODE OF THE CITY.**

WHEREAS, the City of Liberty Lake will incorporate on August 31, 2001; and

WHEREAS, the City of Liberty Lake needs to have ordinances in effect on the date of incorporation which proscribe violations of criminal laws; and

WHEREAS, many of the criminal offenses that would be appropriate for inclusion in the City Penal Code are offenses already set forth in the laws of the City of Spokane; and

WHEREAS, the City intends to revisit adopted interim codes after the date of incorporation when additional staff are available to the City;

NOW, THEREFORE, the City Council of the City of Liberty Lake, Washington, do ordain as follows:

Section 1. **Authority to Adopt Interim Criminal Codes.** Pursuant to RCW 35.21.180, 35A.11.020, 35A.12.140 and 35A.21.160, the City adopts by reference the City of Spokane Penal Code, Title 10, Division I, except Chapter 10.03 relating to Animals, Sections 10.10.060 through 10.10.068 relating to Skywalks, Chapter 10.14 relating to Boater Safety and Section 10.19.010 relating to Swimming in River ("Penal Code"), as presently constituted as the interim Criminal Code for the City of Liberty Lake which shall have the same force and effect as if fully set forth herein. Any reference to City of Spokane shall be construed to mean the City of Liberty Lake.

Section 2. **Adoption of Certain Other Laws.** To the extent that any provision of the Revised Code of Washington, or any other law, rule or regulation referenced in the Penal Code, is necessary or convenient to establish the validity, enforceability or interpretation of the Penal Code, then such provision of the Revised Code of Washington, or other law, rule or regulation is hereby adopted by reference.

Section 3. **Reference to Hearing Bodies.** To the extent that the Penal Code refers to any hearing body, the City Council shall serve in all such roles, but retains the right to establish any one or more of such bodies, at any time and without regard to whether any quasi-judicial or other matter is then pending.

Section 4. **Enforcement.** It shall be the duty of those persons properly authorized by the City Council to enforce this ordinance.

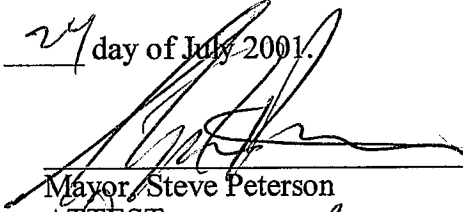
Section 5. Copies on File. The City Clerk is to maintain one copy on file of the code adopted by this ordinance.

Section 6. Liability. The express intent of the City of Liberty Lake is that the responsibility for compliance with the provisions of this ordinance shall rest with any person within the City limits. This ordinance and its provisions are adopted with the express intent to protect the health, safety, and welfare of the general public and are not intended to protect any particular class of individuals or organizations.

Section 7. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 8. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary, and on the date of incorporation.

PASSED by the City Council this 24 day of July 2001.



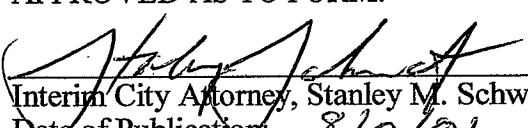
Mayor, Steve Peterson

ATTEST:



Interim City Clerk, Arlene Fisher

APPROVED AS TO FORM:



Interim City Attorney, Stanley M. Schwartz

Date of Publication: 8/2/01

Effective Date: Date of Incorporation

City of Liberty Lake
P.O. Box 370
Liberty Lake, WA 99019
(509) 755-6702

**NOTICE OF ORDINANCE PASSED
BY LIBERTY LAKE CITY COUNCIL**

The following is the title and summary of Ordinance No. 25 passed by the City of Liberty Lake City Council on the 24th day of July, 2001.

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE,
WASHINGTON, ADOPTING BY REFERENCE THE CITY
OF SPOKANE PENAL CODE, TITLE 10 DIVISION I,
EXCEPT CERTAIN SECTIONS AS THE INTERIM
CRIMINAL CODE OF THE CITY.**

The introductory paragraphs state the necessity of a criminal code and that this ordinance will be revisited after the date of incorporation.

Section 1 of the Ordinance establishes the authority of the City and adopts the City of Spokane Penal Code, Title 10 Division I except sections relating to Animals, Skywalks, Boater Safety, Swimming in the River and Trespass on Bridges as the interim criminal code by reference.

Section 2 provides for adoption of certain other laws necessary to enforce the criminal code.

Section 3 establishes that the city council shall serve as hearing bodies referred to in the criminal code.

Section 4 provides that enforcement of the criminal code shall be by those persons duly authorized by the city council.

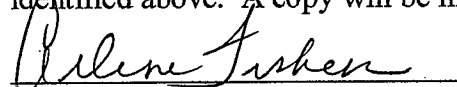
Section 5 provides that a copy of the criminal code will be maintained by the city clerk.

Section 6 establishes that responsibility for compliance with the code rests with those persons within the City limits.

Section 7 establishes a severability clause in the event some portion of the Ordinance is held invalid.

Section 8 states this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary, and on the date of incorporation.

The full text of the Ordinance is available at the Interim City of Liberty Lake City offices as identified above. A copy will be mailed out upon request.



Arlene Fisher
Interim City Clerk

Published: 8/2/01

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Title 10

REGULATION OF ACTIVITIES

Division I.
Penal Code

Chapters:

10.01	General Provisions
10.02	Definitions
10.03	Offenses Involving Animals
10.05	Offenses Against Commerce or Economy
10.06	Offenses Against Decency and Morality
10.07	Offenses Against Governmental Operation
10.08	Offenses Against Public Health
10.09	Domestic Violence
10.10	Offenses Against Peace and Order
10.11	Offenses Against the Person
10.12	Offenses Against Property
10.14	Boating Safety
10.15	Offenses Involving Drugs
10.19	Miscellaneous Offenses
10.20	Penalty

Division II.
License Code

10.21	Close-Out Sales
10.23	Amusement Facilities
10.24	Animals
10.26	Building Moving and Relocation
10.27	Cable Television
10.28	Sidewalk Cafes
10.29	Contractors and Workers
10.30	Private Detectives
10.33A	1986 Fireworks Code
10.34	For-Hire Vehicles
10.35	Garbage Collection
10.36	Gas Transmission and Distribution
10.38	Mechanical Newspaper Dispensers
10.39	Parades and Demonstrations
10.40	Peddlers and Itinerant Vendors
10.41A	Special Police Officers
10.42	Solicitation
10.43	Telephone and Telegraph Construction
10.45	Used Goods ¹
10.46	Weights and Measures

**Division I.
Penal Code**

Chapters:

10.01	General Provisions
10.02	Definitions
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Chapter 10.01

GENERAL PROVISIONS

Sections:

10.01.010	Short Title.
10.01.020	Savings.
10.01.030	Construction.
10.01.040	Severability.
10.01.050	Liability for Conduct of Another -- Complicity -- Aiding and Abetting.
10.01.060	Attempt.
10.01.070	Landowners.
10.01.080	Principals and Agents.
10.01.100	Arrest Without Warrant.

10.01.010 Short Title.

Division I of this title, Chapters 10.01 through 10.20, constitute the penal code of the City and may be cited as such. (Based on Ord. C-25103, § 6.01.010)

10.01.020 Savings.

This title is not intended to apply to or affect any rights, liabilities, or proceedings existing under prior law at the time this penal code takes effect. Any violation of prior law may be prosecuted under such prior law as if this title had not been ordained. (Based on Ord. C-25103, §§ 6.01.020, 6.01.040)

10.01.030 Construction.

This penal code is cumulative and selective and does not imply the repeal of any other ordinance dealing with any subject matter treated herein. (Ord. C-25103, § 6.01.030 (part))

10.01.040 Severability.

Should any provision of this part or its application to any person or circumstance be held invalid, the remainder of the part or the application of the provision to other persons or circumstances is not affected. (Ord. C-25103, § 6.01.030 (part))

**10.01.050 Liability for Conduct of Another
-- Complicity -- Aiding and
Abetting.**

A. A person is liable for a violation of this code if the violation is committed by the conduct of another person for which the person is legally accountable.

B. A person is legally accountable for the conduct of another when

1. acting with the kind of culpability that is sufficient for the commission of the violation, the person causes an innocent or irresponsible person to engage in such conduct; or

2. the person is made accountable for the conduct of such other person by this title or by the law defining the violation; or

3. the person is an accomplice in the commission of the violation.

C. A person is an accomplice in the commission of the violation if

1. with knowledge that it will promote or facilitate the commission of the violation the person

a. solicits, commands, encourages, or requests such other person to commit the violation, or

b. aids or agree to aid such other person in planning or committing the violation; or

2. his conduct is expressly declared by law to establish complicity.

D. A person who is legally incapable of committing a particular violation may be liable therefor if it be committed by the conduct of another person for which the person is legally accountable, unless liability is inconsistent with the purpose of the provision establishing incapacity.

E. Unless otherwise provided by law, a person is not an accomplice in a violation committed by another person if

1. he is a victim of that violation; or

2. he terminates his complicity prior to the commission of the violation, and either gives timely warning to the law enforcement authorities or otherwise makes a good faith effort to prevent the commission of the violation.

F. A person legally accountable for the conduct of another person may be found liable on proof of the commission of the violation and of his complicity therein, though the person claimed to have committed the violation has not been prosecuted or found liable, or has been found liable for a different violation or degree of violation, or has an immunity to prosecution or liability, or has been acquitted. (Ord. C-28629)

Cross-reference: RCW 9A.08.020

10.01.060 Attempt.

A. A person who, with intent to violate a specific provision of this code, does an act which

10.01.060

is a substantial step toward violation is liable for a violation of this code.

B. If the conduct in which a person engages otherwise constitutes an attempt to commit a violation, it is no defense to a prosecution of such attempt that the violation charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.

C. Any attempt is a lesser included or included offense of the violation intended. (Ord. C-28629)

Cross-reference: RCW 9A.28.020

10.01.070 Landowners.

Each owner, occupant, or person having the right of possession or control of real property is responsible for the condition of the premises and is liable for creating, maintaining, or failing to abate any nuisance or any unlawful condition or activity. (Based on Ord. C-2084, §§ 6, 7)

10.01.080 Principals and Agents.

A. Any person acting as agent or servant is personally and directly liable for his or her acts or omissions in violation of this code as if acting on his or her own behalf.

B. Any principal or master, including corporations, partnerships, associations and other legal persons, is liable for acts or omissions in violation of this code of an agent or servant done within the scope of the actor's agency or employment or on behalf of the principal or master. (Based on Ord. C-25103, § 6.02.100 (part))

Cross-reference: RCW 9A.08.020, 030.

10.01.100 Arrest without Warrant.

A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections A through J of this section.

A. Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving

criminal trespass under RCW 9A.52.070 or 9A.52.080, or the equivalent provisions of this title, shall have the authority to arrest the person.

B. A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

1. An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

2. The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes:

a. A felonious assault has occurred;
b. an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or

c. that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider:

i. The intent to protect victims of domestic violence under RCW 10.99.010;
ii. the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and
iii. the history of domestic violence between the persons involved.

C. Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

1. RCW 46.52.010, or the equivalent provisions of this title, relating to duty on striking an unattended car or other property;

2. RCW 46.52.020, or the equivalent provisions of this title, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

3. RCW 46.61.500 or 46.61.530, or the equivalent provisions of this title, relating to reckless driving or racing of vehicles;

4. RCW 46.61.502 or 46.61.504, or the equivalent provisions of this title, relating to persons under the influence of intoxicating liquor or drugs;

5. RCW 46.20.342, or the equivalent provisions of this title, relating to driving a motor vehicle while operator's license is suspended or revoked;

6. RCW 46.61.525, or the equivalent provisions of this title, relating to operating a motor vehicle in a negligent manner.

D. A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

E. [Reserved]

F. An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

G. [Reserved]

H. A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

I. [Reserved]

J. [Reserved]

K. Except as specifically provided in subsections B, C, D and F of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

L. No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100(2) or (8) if the police officer acts in good faith and without malice. (Ord. C-31742)

Cross-reference: RCW 10.31.100

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Chapter 10.02

DEFINITIONS

Sections:

10.02.010	General Rules.
10.02.015	Statutory Definitions Applicable.
10.02.030	Disorderly.
10.02.040	Enter. [Repealed]
10.02.044	Enters or Remains Unlawfully. [Repealed]
10.02.050	Force, Lawful.
10.02.060	Liquor.
10.02.070	Nuisance.
10.02.072	Pedestrian Skywalk System.
10.02.074	Pedestrian Mall.
10.02.085	Possess Stolen Property. [Repealed]
10.02.088	Premises. [Repealed]
10.02.100	Public Accommodation.
10.02.105	Rendering Criminal Assistance. [Repealed]
10.02.130	Unlawful Purpose.

10.02.010 General Rules.

The common law supplements this division. Tense, gender and number are interchangeable. (Ord. C-25103, § 6.01.100)

10.02.015 Statutory Definitions Applicable.

As applicable, the definitions in RCW Titles 9 and 9A, as now or hereafter amended, apply to this division. (Ord. C-28629)

10.02.030 Disorderly.

The term "disorderly" means contrary to the rules of good order and behavior, violative of public peace and good order, turbulent, riotous, or indecent. (Ord. C-25103, § 6.01.110)

10.02.040 Enter.

[Repealed -- Ord. C-31792]

10.02.044 Enters or Remains Unlawfully.

[Repealed -- Ord. C-31792]

10.02.050 Force, Lawful.

The use of force, or the attempt or offer to use force, upon or toward the person of another is not a violation of this part in the following cases:

A. When necessarily used by a public officer in the performance of a legal duty, or a person assisting him and acting under his direction;

B. Whenever used by a party about to be injured, or by another lawfully aiding him in preventing or attempting to prevent an offense against his person, or a malicious trespass, or other malicious interference with real or personal property, lawfully in his possession, so long as the force is not more than is necessary;

C. Whenever used in a reasonable and moderate manner by a parent or his authorized agent, a guardian, or teacher in the exercise of lawful authority, to restrain or correct his child, ward, or scholar;

D. Whenever used by a carrier of passengers, or his authorized agent or servant or other person assisting them at their request, in expelling from a carriage, street car, railway car, or other vehicle, a passenger who refuses to obey any lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than is necessary to expel the offender with reasonable regard to his personal safety;

E. Whenever reasonably used by a person to detain someone who enters and remains unlawfully in a building or on real property lawfully in the possession of such person, so long as such detention is reasonable in duration and manner, to investigate the reason for the detained person's presence on the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public. (Ord. C-25103, § 6.01.190)

Cross-reference: RCW 9A.16.020

10.02.060 Liquor.

"Liquor" is any of the varieties of liquor defined in the Washington Alcoholic Beverage Control Act, Title 66 RCW. (Ord. C-25103, § 6.01.140; Ord. C-31792)

10.02.070 Nuisance.

A "nuisance" is the unreasonable or unlawful use by a person of his real or personal property, or the unreasonable, indecent or unlawful personal conduct which materially interferes with or jeopardizes the health, safety, prosperity, quiet enjoyment of property or welfare of others, offends common decency or public morality, or obstructs or interferes with the free use of public ways, places or bodies of water.

Nuisance also consists of the specific violations set forth in this title in Sections 10.08.030, 10.24.040 and 10.24.070. (Ord. C-28629)

10.02.072

10.02.072 Pedestrian Skywalk System.

"Pedestrian skywalk system" means any system of providing for pedestrian traffic circulation, mechanical or otherwise, elevated above ground, within and without the public rights of way, and through or above private property and buildings, and includes overpasses, bridges, passageways, walkways, concourses, hallways, corridors, arcades, courts, plazas, malls, elevators, escalators, heated canopies and access and all fixtures, furniture, signs, equipment, facilities, services and appurtenances. The term includes systems or portions of systems which are built in the future. For purposes of Chapter 10.10, a pedestrian skywalk system includes stairways and escalators leading from or into the skywalk system from private buildings and areas under stairs and escalators leading to and connecting concourse corridors, in addition to stairs and escalators connecting the concourse corridors to public streets or other public property. (Ord. C-28629)

10.02.074 Pedestrian Mall.

"Pedestrian mall" means any indoor enclosed public mall, arcade, courtyard, galleria, gallery, piazza, square, or other type of indoor public pedestrian way or open space. (Ord. C-28629)

10.02.085 Possess Stolen Property.
[Repealed -- Ord. C-31792]

10.02.088 Premises.
[Repealed -- Ord. C-31792]

10.02.100 Public Accommodation.
A place of "public accommodation" is any place where the general public may go, or where goods, lodging, or services are offered, sold, or let, or any common carrier. (Ord. C-25103, § 6.01.170)

10.02.105 Rendering Criminal Assistance.
[Repealed -- Ord. C-31792]

10.02.130 Unlawful Purpose.
"Unlawful purpose" means a purpose to violate any provision of this title or a Washington State criminal statute. (Ord. C-28629)

Chapter 10.03

OFFENSES INVOLVING ANIMALS

Cross-reference: Chapter 10.24

Sections:

- 10.03.010 Definitions.
- 10.03.020 Dangerous Dog Registration.
- 10.03.030 Dangerous Dog At Large.
- 10.03.035 Potentially Dangerous Dog at Large.
- 10.03.040 Dangerous Dog -- Excuse.
- 10.03.050 Dangerous Dog -- Confiscation.
- 10.03.060 Barking Dog.

10.03.010 Definitions.

The following definitions apply to this chapter unless the context indicates otherwise.

A. "Animal control authority" means a person or entity authorized by statute or contract to enforce the animal control laws of the City.

B. "Animal control officer" means

1. any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law relating to the licensure, control, or seizure and impoundment of animals,

2. any state or local law enforcement officer, or

3. any other official whose duties in whole or in part include the seizure and impoundment of any animal.

C. "Dangerous dog" means any dog that, according to the records of the appropriate authority,

1. has inflicted severe injury on a human being without provocation on public or private property,

2. has killed a domestic animal without provocation while off the owner's property, or

3. has been previously found to be potentially dangerous, the owner having received notice of such finding, and which dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

D. "Owner" means any person possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

E. "Potentially dangerous dog" means

1. any dog that when unprovoked

- a. inflicts bites on a human or a domestic animal either on public or private property, or

b. chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or

2. any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.

F. "Proper enclosure" of a dangerous dog means

1. that while on the owner's property a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure;

2. a pen or structure with secure sides, top, and bottom, providing protection from the elements, suitable to prevent the entry of young children and designed to prevent escape of the animal.

G. "Severe injury" means any physical injury that results in broken bones, disfigurement, or lacerations requiring multiple sutures or cosmetic surgery. (Ord. C-31269)

10.03.020 Dangerous Dog Registration.

A. No owner may keep a dangerous dog, except a dog currently used by law enforcement officers for police work, without a certificate of registration issued under this chapter. The certificate of registration shall be acquired within fourteen days from the incident giving rise to the classification.

B. The animal control authority of the City issues a certificate of registration to the owner of a dangerous dog, upon payment of the fee set forth in Section 8.02.081, if the owner presents to the authority sufficient evidence of:

1. a proper enclosure to confine a dangerous dog; and

2. the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property, and a sign with a warning symbol that informs children of the presence of a dangerous dog; and

3. a. a surety bond issued by a surety insurer qualified under Chapter 48.28 RCW, in a form acceptable to the animal control authority, in the sum of at least fifty thousand dollars, payable to any person injured by the dangerous dog, or

b. a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title 48 RCW in the amount of at least fifty thousand dollars,

10.03.020

insuring the owner for any personal injuries inflicted by the dangerous dog; and

4. a permanent identification on the dog including microchip identification, a tattoo or other methods of identification acceptable to the animal control authority; and

5. additional conditions determined by the animal control authority to be necessary to protect the public health, safety and welfare.

C. Appeal of Dangerous Dog Determination.

A dangerous dog determination by the animal control authority may be appealed to the City's hearing examiner. An appeal must be filed with the hearing examiner's office within fourteen days of receipt of the dangerous dog notice. An appeal does not proceed until the owner has complied with the requirements of subsection 10.03.050.E. The hearing examiner's decision may be appealed to the Spokane County Superior Court within ten days.

D. If an owner fails to register the dog as a dangerous dog within fourteen days of the animal control authority's notice, or of the hearing examiner's decision affirming the animal control authority's determination, the dog may be euthanized unless the shelter facility, at its discretion, agrees to continue to board the dog in order to allow the owner additional time to obtain the certificate of registration. (Ord. C-31269)

Cross-reference: Section 10.24.010

10.03.030 Dangerous Dog At Large.

A. No owner may permit a dangerous dog to be outside the proper enclosure unless the dog is

1. properly muzzled,
2. restrained by a substantial chain or leash, and
3. under the physical restraint of a responsible person.

B. To be properly muzzled, the dog must be wearing a muzzle which prevents it from biting any person or animal but which is made in a manner that does not cause injury to the dog or interfere with its vision or respiration. (Ord. C-28856)

10.03.035 Potentially Dangerous Dog at Large.

A. No owner may cause or permit a potentially dangerous dog to be or run at large within the city or to roam or stray from the building or enclosure where harbored unless:

1. restrained by a sufficient collar, harness, or halter, and on a leash eight feet or less in length and in the control of a person physically able to restrain the dog; or

2. confined safely within a vehicle.

B. No person may release, or allow the escape from confinement or the control of another, any potentially dangerous dog. (Ord. C-29766)

10.03.040 Dangerous Dog -- Excuse.

A dog is not declared dangerous if the threat, injury, or damage was sustained by a person who,

A. at the time,

1. was committing a wilful trespass or other tort upon the premises occupied by the owner of the dog, or

2. was tormenting, abusing, or assaulting the dog, or

B. in the past has been observed or reported to have been

1. tormenting, abusing, or assaulting the dog, or

2. committing or attempting to commit a crime. (Ord. C-28856)

10.03.050 Dangerous Dog -- Confiscation.

A. An animal control officer immediately confiscates a dangerous dog if

1. it is not validly registered under Section 10.03.020; or

2. it is not maintained in the proper enclosure; or

3. it is outside the dwelling of its owner, or outside the proper enclosure, and not under physical restraint of a responsible person; or

4. its owner does not have the surety bond or liability insurance required by Section 10.03.020; or

5. its owner having been previously convicted under this chapter, it attacks or bites a person or another domestic animal; or

6. whether or not it has been previously declared dangerous or potentially dangerous, it aggressively attacks and causes severe injury or death to any human.

B. An animal control officer immediately confiscates a dog not previously declared dangerous or potentially dangerous if it engages in behavior which would qualify the dog as dangerous pursuant to subsection 10.03.010.C.

C. If a dangerous dog has been confiscated because of an attack or bite, as provided in paragraphs 10.03.050.A.5 or 6, the animal control authority quarantines the dog for the appropriate length of time and thereafter causes the dog to be destroyed in an expeditious and humane manner.

D. If a dangerous dog is at large in violation of Section 10.03.030, in addition to confiscation of the dog as provided in paragraph 10.03.050.A.3, the owner is guilty of a gross misdemeanor and punishable as provided in RCW 9A.20.021.

E. When a dangerous dog is placed in a shelter facility, its owner has the responsibility to contact the shelter facility within fourteen days of receipt of the dangerous dog notice, regardless of the owner's decision to appeal the dangerous dog determination, to make payment of the boarding fee provided in paragraph 8.02.080.B.5. Payments of boarding fees must be made in advance, in fourteen-day increments, and must continue for the entire time the dog is placed in the shelter facility regardless of the owner's decision to appeal to the hearing examiner or to the superior court. A certificate of registration is not issued, a dog is not

released, and an appeal is not heard until the owner has paid the full boarding fee owing to the shelter facility. The boarding fee is not refundable regardless of the outcome of an appeal. The shelter facility may euthanize a dog if its owner fails to pay the full board fee within fourteen days of receiving notice of the determination by the animal control authority, regardless of the owner's decision to appeal under subsection 10.03.020.C, or if the owner fails to maintain payment of the boarding fee. (Ord. C-31269)

10.03.060 Barking Dog.

A. No person may allow an animal to unreasonably disturb persons by habitually barking, howling, yelping, whining, or making other oral noises.

B. A violation of this section is established if the person disturbed is either an animal control officer or an individual residing within three hundred feet (exclusive of public right-of-way) of the place where the animal is harbored.

C. The penalty for a violation of this section is a fine not to exceed two hundred fifty dollars. (Ord. C-29599)

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Chapter 10.05

OFFENSES AGAINST COMMERCE
OR ECONOMY

Sections:

- 10.05.020 Beer Keg Sales. [Repealed]
 10.05.030 Fraud on Innkeepers. [Repealed]
 10.05.060 Possessing Stolen Property.
 [Repealed]
 10.05.062 Possessing Stolen Property --
 Definition -- Access Devices,
 Presumption.
 10.05.064 Possession Stolen Property in the
 Third Degree.
 10.05.080 Damaging Utility Equipment.
 10.05.100 Theft.
 10.05.110 Unlawful Issuance of Checks or
 Drafts.

10.05.020 Beer Keg Sales.
 [Repealed -- Ord. C-31377]

10.05.030 Fraud on Innkeepers.
 [Repealed -- Ord. C-31377]

10.05.060 Possessing Stolen Property.
 [Repealed -- Ord. C-31792]

10.05.062 Possessing Stolen
 Property -- Definition -- Access
 Devices, Presumption.

A. "Possessing stolen property" means knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

B. The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.

C. When a person not an issuer or agent thereof has in his possession or under his control stolen access devices issued in the names of two or more persons, he shall be presumed to know that they are stolen. This presumption may be rebutted by evidence raising a reasonable inference that the possession of such stolen access devices was without knowledge that they were stolen. (Ord. C-31792)

Cross-reference: RCW 9A.56.140

10.05.064 Possessing Stolen Property in the
Third Degree.

A. A person is guilty of possessing stolen property in the third degree if he possesses stolen property which does not exceed two hundred fifty dollars in value.

B. Possessing stolen property in the third degree is a gross misdemeanor. (Ord. C-31792)

Cross-reference: RCW 9A.56.170

10.05.080 Damaging Utility Equipment.

A. No person may damage, break, tamper with, remove, disconnect, deface, or in any manner interfere with the safe and efficient operation of any public or private utility equipment.

B. The prohibition of subsection A of this section includes, without limitation, damage to any electric light, bulb, tube or fixture; tampering with any water or sewer pipe, connector, valve or meter; tampering with any electrical wire, cable, conduit, switch or meter; and damage to any public transportation system equipment.

C. The penalty for violation of this section is:

1. for damage of fifty dollars or less, a fine not to exceed one thousand dollars, or imprisonment for not more than ninety days, or both such fine and imprisonment;

2. for damage of more than fifty but not more than two hundred fifty dollars, a fine not to exceed five thousand dollars, or imprisonment for not more than one year, or both such fine and imprisonment. (Ord. C-28629)

Cross-reference: Section 10.27.340; RCW 9A.48.090

10.05.100 Theft.

A. No person may commit theft of property or services of the value of two hundred fifty dollars or less.

B. In a prosecution for theft it is a sufficient defense that the property or services were appropriated openly and avowedly under claim of title made in good faith, even though the claim is untenable.

C. The penalty for violation of this section is a fine not to exceed five thousand dollars, or imprisonment for not more than one year, or both such fine and imprisonment. (Ord. C-28629)

Cross-reference: RCW 9A.56.050; Section 10.27.740

10.05.110 Unlawful Issuance of Checks or Drafts.

A. Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft, on a bank or other depository for the payment of money, knowing at the time of such drawing, or delivery, that he has not sufficient funds in, or credit with said bank or other depository, to meet said check or draft, in full upon its presentation, shall be guilty of unlawful issuance of bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

B. Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft on a bank or other depository for the payment of money and who issues a stop-payment order directing the bank or depository on which the check is drawn not to honor said check, and who fails to make payment of money in the amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within twenty days of issuing said check or draft shall be guilty of unlawful issuance of a bank check.

C. When any series of transactions which constitute unlawful issuance of a bank check would, when considered separately, constitute unlawful issuance of a bank check in an amount of two hundred fifty dollars or less because of value, and the series of transactions are a part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining whether the unlawful issuance of a bank check is to be punished as a class C felony or a gross misdemeanor.

D. Unlawful issuance of a bank check in an amount of two hundred fifty dollars or less is a gross misdemeanor and shall be punished as follows:

1. The court shall order the defendant to make full restitution;

2. The defendant need not be imprisoned, but the court shall impose a minimum fine of five hundred dollars. Of the fine imposed, at least fifty dollars shall not be suspended or deferred. Upon conviction for a second offense within any twelve-month period, the court may suspend or defer only that portion of the fine which is in excess of five hundred dollars. (Ord. C-31792)

Cross-reference: RCW 9A.56.060

Chapter 10.06

OFFENSES AGAINST DECENCY AND
MORALITY

Sections:

- 10.06.010 Disorderly House.
 10.06.020 Lewd Conduct.
 10.06.030 Prostitution.
 10.06.035 Patronizing a Prostitute.

10.06.010 Disorderly House.

No person, whether as owner or agent, employee or servant, may maintain or conduct a disorderly house, a bawdy house, a house of ill-fame, or any place for the practice of prostitution, or for any lewd, obscene, or indecent purpose.

Upon the trial of any person charged with a violation of this section in municipal court, evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of such place. (Ord. C-25103, § 6.05.300)

10.06.020 Lewd Conduct.

A. As used in this section a lewd act is:

1. An exposure of one's genitals or female breast(s); or
2. The touching, caressing, or fondling of the genitals or female breast(s); or
3. Sexual intercourse; or
4. Masturbation; or
5. Urination or defecation in a place other than a washroom or toilet room.

B. A person is guilty of lewd conduct if he intentionally performs any lewd act in a public place or at a place and under circumstances where such act could be observed by any member of the public.

C. This section is not applicable to:

1. performances in a theater or museum;
- or
2. the exposure of a female breast while nursing an infant. (Ord. C-28629)

10.06.030 Prostitution.

A. No person may commit an act of prostitution.

B. A person commits prostitution if the person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

C. A person commits prostitution if the person loiters in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting, or procuring another to pay for an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested are that the subject is a known prostitute or panderer; repeatedly beckons to, stops or attempts to stop, or engages in conversation with passersby; repeatedly stops or attempts to stop motor vehicle operators by hailing, waving arms, or any other bodily gesture. No arrest may be made under this subsection unless the arresting officer first affords the subject an opportunity to explain such conduct. It is a defense under this subsection that the explanation given was true and disclosed a lawful purpose.

D. For purposes of this section "sexual conduct" means "sexual intercourse" as defined in RCW 9A.44.010(1), or "sexual contact" as defined in RCW 9A.44.100(2). (Ord. C-28629)

10.06.035 Patronizing a Prostitute.

A. No person may patronize a prostitute.

B. A person who

1. pays or agrees or offers to pay a fee to another as compensation for or in return for sexual intercourse or sexual contact with that or some other person, or,

2. engages or agrees to engage in sexual intercourse or sexual contact with another for a fee,

patronizes a prostitute. (Ord. C-27284)

Cross-reference: 10.01.050; RCW 9A.88.030

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Chapter 10.07

OFFENSES AGAINST
GOVERNMENTAL OPERATION

Sections:

- 10.07.010 False Alarm -- Prohibited.
- 10.07.011 Definitions.
- 10.07.012 Emergency Response Notification.
- 10.07.013 Automatic Calling Device Prohibited.
- 10.07.014 Penalties.
- 10.07.015 Enforcement.
- 10.07.016 Verification Process.
- 10.07.017 False Fire Alarms.
- 10.07.021 Criminal Impersonation.
- 10.07.030 Obstructing a Law Enforcement Officer. [Repealed]
- 10.07.031 Definitions.
- 10.07.032 Obstructing a Law Enforcement Officer.
- 10.07.033 Refusing to Summon Aid for a Peace Officer.
- 10.07.034 Resisting Arrest.
- 10.07.035 Rendering Criminal Assistance -- Definition of Term.
- 10.07.036 Relative Defined.
- 10.07.037 Rendering Criminal Assistance in the First Degree.
- 10.07.038 Rendering Criminal Assistance in the Second Degree.
- 10.07.039 Rendering Criminal Assistance in the Third Degree.
- 10.07.040 Reporting Injuries.
- 10.07.050 Resisting. [Repealed]
- 10.07.060 Rendering Criminal Assistance. [Repealed]
- 10.07.070 Interference with Police Animal.

10.07.010 False Alarm -- Prohibited.

A. No person may wilfully tamper with, damage, or interfere with any wire, switch, telephone, radio, or other equipment or apparatus of any public or private alarm system.

B. No person may wilfully and without reasonable grounds give or send any false alarm of fire or other emergency, including shouting in a public place.

C. No person may intentionally activate any alarm system, for the purpose of summoning emergency response personnel, except in the event of an actual or attempted criminal activity or other actual emergency necessitating

emergency response personnel response, and no person notifying emergency response services of an activated alarm and having knowledge that such activation was apparently caused by an electrical or other malfunction of the alarm system may fail at the same time to notify the emergency response personnel of such apparent malfunction.

D. No alarm system user may cause or allow more than one false alarm to occur within any two-year period.

E. No person may provide alarm system monitoring service to the user of an automatic alarm system without maintaining a verification process as provided in Section 10.07.016.

F. A violation of subsections A through C, inclusive, is a misdemeanor; a violation of subsections D or E is a civil infraction. (Ord. C-31588)

10.07.011 Definitions.

A. "Alarm system" means any assembly of equipment, mechanical or electrical, designed to alert law enforcement agencies, emergency response personnel, the public, or any person of the commission or attempted commission of a crime or of an emergency. "Alarm system" includes, but is not limited to, burglary, robbery, fire, emergency panic, or traffic control alarms whether on public or private premises.

B. "Alarm system monitoring personnel" means any person that engages in the business of monitoring emergency alarm systems and reporting any activation of such alarm systems to the appropriate public safety agency.

C. "Alarm system user" means the person who owns or has control over any premises where an alarm system is maintained. An alarm system user is regarded as the person requesting activation of the emergency alarm response and who is responsible for corrective action under this ordinance⁹ as a result of a false alarm.

D. "Authorized service personnel" means those persons who, by reason of their experience, trade, or occupation, can demonstrate to the chief of police that they are qualified to inspect or repair alarm systems.

E. "Emergency response personnel" means law enforcement, fire fighting or emergency dispatch personnel, or any other person or entity responsible for responding to an alarm system.

F. "False alarm" means the wilful, intentional or unintentional activation of any alarm system for the purpose of summoning the police or fire

department or other emergency response personnel at a time when no criminal activity is being committed or attempted on the premises or no fire or other emergency exists. False alarm also includes an alarm activated due to an equipment malfunction, improper installation or maintenance of equipment, human error or negligence, or any cause other than the actual commission or attempted commission of a criminal act.

G. "Non-Response Order" means an order given by the police chief directing the police department not to designate a response to an alarm when false alarms generated from that alarm system have exceeded the number permitted under this ordinance.

H. "Premises" means any building, structure, enclosure, real property, or vehicle.

I. "Verification process" means an independent method of determining that a signal from an automatic alarm system reflects a need for immediate police assistance or investigation. The verification process must be conducted by the alarm system monitoring personnel and may not take more than five minutes, calculated from the time the alarm signal has been accepted by the alarm system monitoring personnel until a decision is made whether to call for a police dispatch. (Ord. C-31588)

10.07.012 Emergency Response Notification.

A. No person may have or maintain on any premises, except a vehicle, an audible type alarm system unless

1. notification is provided to the emergency dispatching offices of the names and telephone numbers at which the individual or individuals authorized to enter such premises and turn off such alarm can be reached at all times, or

2. such notification has been provided to alarm system personnel who have a twenty-four-hour telephone number available to the emergency dispatch offices or is posted outside the premises where the alarm is located.

B. The individual authorized to enter the premises and to turn off the alarm will be responsible to respond to the police or fire department's request to come to the premises and turn off the alarm system within a reasonable time after being notified. (Ord. C-31588)

10.07.013 Automatic Calling Device Prohibited.

No person may use or operate, or attempt to use or operate, or cause to be used or operated, or arrange, adjust, program, or otherwise provide or install any device or combination of devices that will upon activation, either mechanically, electronically, or by any other automatic means, initiate a telephonic or recorded message to the 9-1-1 emergency telephone number, or to any telephone number assigned or any additional telephone numbers assigned to the City police or fire department. (Ord. C-31588)

10.07.014 Penalties.

A. Criminal Penalty.

A violation of subsections 10.07.010.A through C, inclusive, is a misdemeanor.

B. First Violation.

Upon the first false alarm from an alarm system the police department sends a notice to the alarm system user informing the user of the time and location of the false alarm, the nature of the response and the requirements of this ordinance⁹.

C. Civil Infraction.

1. Each false alarm after the first from the same alarm system within a two-year period is a civil infraction and subjects the alarm system user to the penalty provided in Section 1.05.160.

2. The failure of an alarm system monitoring company to comply with the requirements of the verification process is a civil infraction and subjects the company to the penalty provided in Section 1.05.170.

D. Fifth Violation.

Upon the fifth false alarm from the same alarm system within a two-year period the chief of police may impose a non-response order directing the department not to designate a response to that location, except that a non-response order is not imposed against premises required by law to have an alarm system. (Ord. C-31588)

10.07.015 Enforcement.

A. Rules and Regulations.

The chief of police administers and enforces the provisions of this ordinance⁹. This chief is authorized to make and enforce such rules and regulations as are necessary to implement this ordinance.

B. Non-Response.

1. Notice is given to the alarm system user at least forty-eight hours prior to issuance of a non-response order if the name of the alarm system user has been furnished to the department. Failure to furnish the name of the alarm system user constitutes a waiver of this notice provision.

2. The alarm system user may petition the chief to reinstate police response to an alarm. The chief rescinds the non-response order if the alarm system user satisfactorily demonstrates that the cause of the previous false alarms has been corrected. In determining whether to rescind a non-response order the chief uses criteria set forth in the rules and regulations made pursuant to subsection A.

3. When a non-response order has been rescinded, the alarm system will be on probationary status for a period of time not to exceed one year. If the repeated instances of false alarms continue during the probationary period, the non-response order may be reinstated.

C. Additional Information.

On the first false alarm, the department may require the alarm system user to provide information to the department regarding the cause of the false alarm, whether any corrective action has been taken and whether the system has been inspected or repaired by authorized service personnel. (Ord. C-31588)

10.07.016 Verification Process.

All alarm system monitoring personnel engaging in business activities in the city must maintain

A. accessible to the police department at all times, a current list of all subscribers' names, addresses and telephone numbers and the associated protected premises, and

B. a verification process with those subscribers who have an automatic alarm system to prevent false alarms from resulting in unnecessary emergency dispatch. (Ord. C-31588)

10.07.017 False Fire Alarms.

Nothing in this chapter restricts the authority of the City to enact additional ordinances, rules, or regulations relating to enforcement of false fire alarms and to impose civil infractions and/or fees to reimburse the fire department for its

expenses as authorized by the fire code. (Ord. C-31588)

10.07.021 Criminal Impersonation.

A. No person may with intent to defraud another or for any other unlawful purpose

1. assume a false identity and do an act in his assumed character, or

2. pretend to be a representative of some person or organization or public servant and do an act in his pretended capacity.

B. The penalty for violation of this section is a fine not to exceed five thousand dollars, or imprisonment for not more than one year, or both such fine and imprisonment. (Ord. C-28629)

Cross-reference: RCW 9A.60.040

10.07.030 Obstructing a Law Enforcement Officer.

[Repealed -- Ord. C-31792]

10.07.031 Definitions.

The following definitions are applicable in this chapter unless the context otherwise requires:

A. "Custody" means restraint pursuant to a lawful arrest or an order of a court, or any period of service on a work crew: PROVIDED, That custody pursuant to chapter 13.34 RCW and RCW 74.13.020 and 74.13.031 and chapter 13.32A RCW shall not be deemed custody for purposes of this chapter;

B. "Detention facility" means any place used for the confinement of a person

1. arrested for, charged with or convicted of an offense, or

2. charged with being or adjudicated to be a juvenile offender as defined in RCW 13.40.020 as now existing or hereafter amended, or

3. held for extradition or as a material witness, or

4. otherwise confined pursuant to an order of a court, except an order under chapter 13.34 RCW or chapter 13.32A RCW, or

5. in any work release, furlough, or other such facility or program;

(3) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, rule, regulation, or order of a court. (Ord. C-31792)

Cross-reference: RCW 9A.76.010

10.07.032 Obstructing a Law Enforcement Officer.

A. A person is guilty of obstructing a law enforcement officer if the person willfully hinders, delays, or obstructs any law enforcement officer in the discharge of his or her official powers or duties.

B. "Law enforcement officer" means any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 10.93.020, and other public officers who are responsible for enforcement of fire, building, zoning, and life and safety codes.

C. Obstructing a law enforcement officer is a gross misdemeanor. (Ord. C-31792)

Cross-reference: RCW 9A.76.020

10.07.033 Refusing to Summon Aid for a Peace Officer.

A. A person is guilty of refusing to summon aid for a peace officer if, upon request by a person he knows to be a peace officer, he unreasonably refuses or fails to summon aid for such peace officer.

B. Refusing to summon aid for a peace officer is a misdemeanor. (Ord. C-31792)

Cross-reference: RCW 9A.76.030

10.07.034 Resisting Arrest.

A. A person is guilty of resisting arrest if he intentionally prevents or attempts to prevent a peace officer from lawfully arresting him.

B. Resisting arrest is a misdemeanor. (Ord. C-31792)

Cross-reference: RCW 9A.76.040

10.07.035 Rendering Criminal Assistance -- Definition of Term.

As used in Sections 10.07.037, 10.07.038 and 10.07.039, a person "renders criminal assistance" if, with intent to prevent, hinder, or delay the apprehension or prosecution of another person who he knows has committed a crime or juvenile offense or is being sought by law enforcement officials for the commission of a crime or juvenile offense or has escaped from a detention facility, he:

A. Harbors or conceals such person; or

B. Warns such person of impending discovery or apprehension; or

C. Provides such person with money, transportation, disguise, or other means of avoiding discovery or apprehension; or

D. Prevents or obstructs, by use of force, deception, or threat, anyone from performing an act that might aid in the discovery or apprehension of such person; or

E. Conceals, alters, or destroys any physical evidence that might aid in the discovery or apprehension of such person; or

F. Provides such person with a weapon. (Ord. C-31792)

Cross-reference: RCW 9A.76.050

10.07.036 Relative Defined.

As used in Sections 10.07.037 and 10.07.038 "relative" means a person:

A. Who is related as husband or wife, brother or sister, parent or grandparent, child or grandchild, step-child or step-parent to the person to whom criminal assistance is rendered; and

B. Who does not render criminal assistance to another person in one or more of the means defined in subsections 10.07.035.D, E, or F. (Ord. C-31792)

Cross-reference: RCW 9A.76.060

10.07.037 Rendering Criminal Assistance in the First Degree.

A. A person is guilty of rendering criminal assistance in the first degree if he renders criminal assistance to a person who has committed or is being sought for murder in the first degree or any class A felony or equivalent juvenile offense.

B. Rendering criminal assistance in the first degree is:

1. A gross misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in Section 10.07.036 or RCW 9A.76.060;

2. A class C felony in all other cases. (Ord. C-31792)

Cross-reference: RCW 9A.76.070

10.07.038 Rendering Criminal Assistance in the Second Degree.

A. A person is guilty of rendering criminal assistance in the second degree if he renders criminal assistance to a person who has committed or is being sought for a class B or class C felony or an equivalent juvenile offense or to someone being sought for violation of parole, probation, or community supervision.

B. Rendering criminal assistance in the second degree is:

1. A misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in Section 10.07.036 or RCW 9A.76.060;

2. A gross misdemeanor in all other cases. (Ord. C-31792)

Cross-reference: RCW 9A.76.080

10.07.039 Rendering Criminal Assistance in the Third Degree.

A. A person is guilty of rendering criminal assistance in the third degree if he renders criminal assistance to a person who has committed a gross misdemeanor or misdemeanor.

B. Rendering criminal assistance in the third degree is a misdemeanor. (Ord. C-31792)

Cross-reference: RCW 9A.76.090

10.07.040 Reporting Injuries.

Every person operating or in charge of a pharmacy or hospital, clinic or other medical

treatment facility, and every practitioner of the healing arts is required to report immediately to the police department each instance of a person suffering wound or injury apparently inflicted by a dangerous weapon or firearm. (Ord. C-28629)

10.07.050 Resisting.

[Repealed -- Ord. C-31792]

10.07.060 Rendering Criminal Assistance.

[Repealed -- Ord. C-31792]

10.07.070 Interference with Police Animal.

No person may knowingly grab, harass, strike, injure, attempt to injure, hold the harness or saddle of, or interfere with a horse or other animal being used by a police officer for police work or being used in the performance of a police duty or function. (Ord. C-28629)

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Chapter 10.08

OFFENSES AGAINST PUBLIC HEALTH

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- 10.08.010 Litter and Rubbish.
 10.08.020 Noise.
 10.08.030 Nuisance.
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- 10.08.070 Findings.
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10.08.340

Penalty.

Article 1 -- In General

10.08.010 Litter and Rubbish.

A. The term "litter" as used in this section means and includes refuse, rubbish, garbage, discarded items, and all waste material of every kind and description.

B. 1. No person may place, throw, deposit or otherwise dispose of litter in any public place, public park, or in the waters within the city limits, except in accordance with the regulations of the solid waste management department.

2. No person may place or deposit litter on the private property of another without the property owner's permission.

C. 1. No person may place litter accumulated on private property, or burning or smoldering materials, or dead animals, in any receptacle provided by the City for litter disposal; or remove or disturb the contents of any such receptacle except as authorized by the City.

2. No person may place or deposit any litter or any other thing into any garbage can, dumpster, or other receptacle located on the property of another, except such containers or receptacles placed in an area open to the public and designated for deposit of litter by the public.

D. No owner or occupant of private property may deposit or accumulate, or permit the deposit or accumulation of, litter upon such private property. This subsection does not prohibit the storage of garbage or rubbish in public or private litter receptacles, or in garbage cans or in securely tied bundles, when such storage meets the requirements of the solid waste management department.

E. No owner or occupant of abutting property may allow the accumulation of litter on sidewalks or planting strips, whether or not such litter is deposited by such owner or occupant.

F. The existence among any articles deposited in violation of this section of more than two items which identify a particular person creates a rebuttable presumption that the person so identified is responsible for the unlawful deposit.

G. A violation of this section is a civil infraction. (Ord. C-28629; Ord. C-31589)

Cross-reference: Chapter 13.01; Section 16.61.655

10.08.020 Noise.

No person may make or permit any unnecessary or unusual noise between the hours of six a.m. and ten p.m. to the annoyance of others. No person may make or permit, in the operation of a machine, in the harboring of an animal or otherwise, any noise between the hours of ten p.m. and six a.m. to the annoyance of any other person of ordinary sensibilities. (Based on Ord. C-25103, § 6.12.100)

Cross-reference: Section 10.03.060.

10.08.030 Nuisance.

A. No person may do an act, omit to act, engage in a course of activity, or create or maintain a condition which unreasonably:

1. interferes with the comfort, solitude, health, or safety of others; or

2. offends common decency; or

3. offends common sensibilities and senses by way of extreme noise, light, or odor; or

4. obstructs or renders hazardous for public passage any public way or place; or

5. pollutes or renders less usable any water course or water body.

B. No person may maintain upon any land:

1. a refrigerator, freezer, or other insulated container within which a child could suffocate;

2. a pit, excavation, swimming pool, well, or other uncovered hole into which a person could fall;

3. lumber, metal, plastic, paper, cardboard, or other scrap material deposited in such place and manner as to constitute a hazardous attraction to children;

4. unused or junk vehicle or machinery or parts unless enclosed and secured as required by law for wrecking yards, or junk yards; or

5. an abandoned or vacant building, structure or part thereof not securely closed to entry.

C. No person may maintain upon any land:

1. any toxic, radioactive, caustic, explosive, malodorous, or septic substances, such as putrescent animal, fish, or fowl parts, animal or vegetable waste matter, excrement, and any material likely to attract or breed flies or rats, unless kept in proper receptacles as provided by the health and refuse laws;

2. any structure, collection of wood, cloth, paper, plastic, or glass material, vegetation, or flammable substances kept in such manner as to create a substantial risk of combustion or spread of fire;

3. any condition which has been finally determined by the planning services director or hearing examiner to be a violation as provided in Article 6 of Chapter 11.19.⁶ (Ord. C-30834)

10.08.040 Fire Hazard from Vegetation and Debris.

Owners and occupants of property within the city must remove or destroy all grass, weeds, shrubs, bushes, trees and vegetation growing or which has grown and died and all debris which are a fire hazard or a menace to the public health, safety, or welfare. Such condition is declared a nuisance. The City may cause the removal or destruction of such vegetation and

debris in accordance with the procedures of Section 10.20.020. (Ord. C-30437)

Cross-reference: RCW 35.21.310

10.08.060 Sale of Phosphorus Products.

A. No person may sell, offer or expose for sale, or distribute, whether at wholesale or retail, and whether for commercial or personal and domestic use, any laundry cleaning product containing phosphorus in excess of a trace quantity.

B. "Laundry cleaning product" means any product, including but not limited to, soap, detergent, laundry bleach and laundry additive, used for the purpose of cleaning laundry.

C. "Phosphorus" means elemental phosphorus.

D. "Trace quantity" means an incidental amount of phosphorus which is not part of the product formulation and is present only as a consequence of manufacturing, and which does not exceed five tenths of one percent of the content of the product by weight, expressed as elemental phosphorus. (Ord. C-29578)

Article 2 -- Adult Arcades

10.08.070 Findings.

A. Based upon a wide range of evidence presented to the Spokane City Council and to other jurisdictions, including but not limited to the testimony of law enforcement officers and members of the public, and on other evidence, information, publications, articles, studies, documents, case law and materials submitted to and reviewed by the city council and staff, the councils of other cities within the region and in other jurisdictions, nonprofit organizations and other legislative bodies, the city council finds that the commercial offering of adult entertainment establishments containing adult arcade devices is a use which, although afforded some constitutional protection, often creates or enhances undesirable secondary effects, which include a wide range of criminal and other unlawful activities that have regularly and historically occurred, including prostitution, narcotics and liquor law violations, breaches of the peace, assaults and sexual conduct and other criminal activity involving contact between patrons and between entertainers and patrons, some of whom have been minors; and,

B. Based upon the specific experiences of Spokane and the adult entertainment establish-

ments containing adult arcade devices currently located within the City of Spokane, the city attorney has advised that this ordinance⁴ be enacted; and

C. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the adverse secondary effects of adult entertainment establishments containing adult arcade devices; and

D. The city council, therefore, finds that the protection and the preservation of public health, safety and welfare requires establishment of this ordinance. (Ord. C-30808)

10.08.080 Purpose.

This ordinance⁴ is intended to protect the general public health, safety and welfare of the citizenry of the City of Spokane through the regulation of the operations of adult arcade devices and premises. The regulations set forth herein are intended to prevent health problems, safety problems and the decline in neighborhood conditions in and around adult arcade premises and to prevent dangerous and unlawful conduct in and around adult arcade premises. (Ord. C-30808)

10.08.090 Definitions.

A. "Adult arcade" or "adult arcade premises" means any premises on which any adult arcade device is located and to which patrons, customers and/or members of the public are admitted.

B. "Adult arcade device," sometimes also known as "panoram," "preview," "picture arcade," or "peep show," means any device which, for payment of a fee, membership fee, or other charge, is used to exhibit or display a picture, view, film, videotape, live show, or other graphic display of "specified anatomical areas." All such devices are denominated under this chapter by the term "adult arcade device." The term "adult arcade device" as used in this chapter does not include games which employ pictures, views, or video displays, or gambling devices regulated by the state or by other provisions of the Spokane Municipal Code.

C. "Adult arcade manager" means any person who manages, operates, directs, administers, or is in charge of the affairs and/or the conduct of any adult arcade premises.

D. "Adult arcade owner" means any person who owns and/or has a substantial ownership interest in the business.

E. "Adult arcade station" or "booth" means such an enclosure where a patron, member, or customer would ordinarily be positioned while using an adult arcade device or viewing a live show. "Adult arcade station" or "booth" also refers to the area in which an adult arcade device is located and from which the adult arcade picture, view, live show, or graphic display is to be viewed. The words "adult arcade station" or "booth" do not mean such an enclosure that is a private office used by an owner, manager, or person employed on the premises for attending the tasks of his or her employment, which enclosure is not held out to the patron, member, or the public for use, for hire, or for a fee for the purpose of viewing the entertainment provided by the arcade device or live show, and not open to any person other than employees.

F. "License" or "licensee" is meant to include the words "permit" or "permittee" and means the privilege or the holder of any privilege, respectively, under this chapter or other law or ordinance.

G. "Licensing administrator" means the assistant director of the City's code enforcement office.

H. The words "open to an adjacent public room so that the area inside is visible to persons in the adjacent public room" mean that there may be no door, curtain, partition, or other device extending from the floor to the top of the door frame with the exception of a door which is completely transparent and constructed of safety glass as specified in the Uniform Building Code, Section 2406, so that the activity and occupant inside the enclosure may be clearly and easily viewed or seen by persons outside the enclosure from any point in the adjacent public room.

I. "Person" is meant to include an individual, a natural person, proprietorship, a partnership, a joint venture, a society, an association, a club, a trustee, a trust, or a corporation.

J. "Premises" is meant to include the land, structures, places, the equipment and appurtenances connected or used in any business, and any personal property or fixtures used in connection with any business.

K. "Specified anatomical areas" means

1. human genitals, pubic region, buttock and female breast below a point immediately

above the top of the areola, when such areas are less than completely and opaquely covered;

2. human male genitals in a discernibly turgid state, even if completely and opaquely covered.

L. "Specified sexual activities" means

1. human genitals in a state of sexual stimulation or arousal;

2. acts of human masturbation, sexual intercourse, or sodomy;

3. fondling or other erotic touching of human genitals, pubic region, buttock, or female breast. (Ord. C-30808; Ord. C-31010)

10.08.100 Interior Configuration and Operation.

All owners of adult arcade premises must ensure that the premises comply with the criteria set out in subsections 10.08.100.A through D.

A. PREMISES

Restrooms may not contain video reproduction equipment.

B. STEPS/RISERS

No steps or risers are allowed in any adult arcade booth or station.

C. VENTILATION AND OTHER HOLES

All ventilation devices between adult arcade booths must be covered by a permanently affixed ventilation cover. Ventilation holes may only be located one foot from the top of the booth walls or one foot from the bottom of the booth walls. There may not be any other holes or openings between the booths.

D. ADULT ARCADE BOOTH OR STATION

All adult arcade stations or booths must be open to an adjacent public room so that the area inside is visible by direct line of sight to persons in the adjacent public room. No adult arcade station, booth, or viewing area may be obscured by any curtain, door, wall, or other non-transparent enclosure. (Ord. C-30808)

10.08.110 Duties, Standards of Conduct and Operational Requirements.

It is the continuing duty of the owner, manager, operator, agent and employee present in the premises to ensure compliance with subsections 10.08.110.A through 10.08.110.J.

A. There must be at least one employee on duty and situated in the public room adjacent to the adult arcade stations or booths at all times that any patron, member, or customer is present inside the premises.

B. There must be permanently posted and maintained in at least two conspicuous locations on the interior of all adult arcade premises a sign stating substantially the following:

Occupancy of any station or booth is at all times limited to one person. There may be no acts of lewd conduct (as defined in SMC 10.06.020) in the stations or booths or on the premises. Violators are subject to criminal prosecution under City of Spokane Municipal Code Section 10.06.020.

Each sign must be conspicuously posted and not screened from the patron's view. The letters and numerals must be on a contrasting background and be no smaller than three-quarters inch in height.

C. The premises must be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons, members, or customers are permitted access at an illumination of not less than ten foot candles as measured at the floor level at all times while patrons, members, or customers are permitted within the premises.

D. Doors to areas on the premises which are available for use by persons other than the owner, manager, operator, or their agents or employees may not be locked during business hours.

E. The unobstructed view into the adult arcade booths or stations from the adjacent public room by direct line of sight must remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times.

F. No patron, member, or customer may be permitted access to any area of the premises which has been designated as an area in which patrons, members, or customers will not be permitted.

G. No adult arcade booth or station may be occupied by more than one person at any time.

H. There may be no acts of lewd conduct as defined in SMC 10.06.020 in the adult arcade stations or booths or on the premise.

I. No person may operate or maintain any warning system or device, of any nature or kind, for the purpose of warning or aiding and abetting the warning of patrons, members, customers, or any other persons occupying adult arcade stations or booths located on the premises that police officers or City health, fire, licensing, or building inspectors are approaching or have entered the premises.

J. No person under the age of eighteen years of age may be on or within an adult arcade premises whether as a patron, member, customer, agent, employee, or independent contractor. (Ord. C-30808)

10.08.111 Adult Arcade Premise License Required.

A. It is unlawful to display, exhibit, expose or maintain upon any premise to which members of the public are admitted any adult arcade device without a valid and current license for such premises, to be designated an "Adult Arcade Premise License."

B. A separate license is required for each adult arcade premise and the same shall at all times be conspicuously posted and maintained therein.

C. The licensing administrator shall prescribe the form of such license, number the same, and shall indicate thereon the number of adult arcade devices which may be operated thereunder, and the location at which the adult arcade premises licenses must be displayed.

D. An application for an adult arcade premise license must be made on a form provided by the licensing administrator. The application shall be accompanied by a sketch or diagram of the premises showing a plan or configuration thereof, including a statement of total floor space occupied by the business which is in compliance with SMC subsections 10.08.100.A through D, Interior Configurations and Operation. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

E. The diagram or sketch must specify the configuration of the interior of the business, including but not limited to, the location of all adult arcade devices, the location of all overhead lighting fixtures and designate any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. The license administrator or the administrator's designee may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

F. No alteration in the configuration of the interior of the adult arcade premises may be made without the prior approval of the licensing administrator or the administrator's designee.

G. The applicant must be qualified according to the provisions of this chapter. (Ord. C-31010)

10.08.112 Adult Arcade Premise License Application.

Any person seeking an adult arcade premise license shall file a written application with the licensing administrator on a form provided by the administrator for that purpose. All applications for an adult arcade premise license shall be submitted in the name of the person or entity proposing to conduct such business and shall be signed by such person and notarized or certified as true under penalty of perjury. All application forms shall require the following information:

A. the name, home address, home telephone number, date and place of birth, and social security number (if the applicant is an individual) of the applicant;

B. the business name, address and telephone number of the establishment;

C. if a person who wishes to operate an adult arcade premise is an individual, that person must sign the application for the license as applicant;

D. the name, address and telephone number of the owner of the property on which the adult arcade premise is located. (Ord. C-31010; C-31261)

10.08.113 Adult Arcade Manager's License Required.

A. A manager shall be on the premises of an adult arcade premise at all times that the adult arcade premise is open for business. No person shall work as a manager at an adult arcade premise without first having obtained a manager's license pursuant to this chapter.

B. Any person seeking an adult arcade manager's license shall file a written application with the licensing administrator on a form provided by the administrator for that purpose. All applications for an adult arcade manager's license shall be submitted in the name of the person proposing to work at the business as a manager and shall be signed by such person and notarized or certified as true under penalty of perjury. All application forms shall require the following information:

1. the name, home address, home telephone number, date and place of birth, and social security number of the applicant;

2. the business name, address and telephone number of the establishment;

3. the name, address and telephone number of the owner of the property on which the adult arcade manager will be working.

C. Adult arcade manager's licenses shall be issued for individual managers only and shall not be transferable to other individuals or other premises.

D. When a manager is on duty, he/she shall have his/her license conspicuously displayed at the same location as the premise license as designated by the licensing administrator. (Ord. C-31010)

10.08.114 Adult Arcade Device License Required.

A. It is unlawful to exhibit or display for public use any adult arcade device upon any premise without first having obtained a license for each such device, to be designated an "Adult Arcade Device License."

B. Adult arcade device licenses shall be issued for specific adult arcade premises only and shall not be transferable.

C. The current adult arcade device license for each device shall be securely attached to such device in a conspicuous place.

D. Any person seeking an adult arcade device license shall file a written application with the licensing administrator on a form provided by the administrator for that purpose. All applications for an adult arcade device license shall be submitted in the name of the person or entity proposing to operate or own the devices and shall be signed by such person and notarized or certified as true under penalty of perjury. All application forms shall require the following information:

1. the name, home address, home telephone number, date and place of birth, and social security number (if the applicant is an individual) of the applicant;

2. the business name, address and telephone number of the establishment;

3. if a person who wishes to operate an adult arcade device is an individual, that person must sign the application for the license as applicant;

4. the name, address and telephone number of the owner of the property on which

the adult arcade devices are to be located. (Ord. C-31010; Ord. C-31261)

**10.08.115 License Fees -- Term --
Assignment -- Renewals.**

A. The license year shall be from January 31st to January 30th of the following year. All licenses shall expire on the 31st day of January each year. Except as hereinafter provided, all license fees shall be payable on an annual basis and shall not be refundable. Annual license fees shall be as follows:

Adult Arcade Premise License, five hundred dollars;

Adult Arcade Device License, fifty dollars for each device;

Adult Arcade Manager's License, thirty dollars.

B. License fees shall not be prorated, except that if the original application for license is made subsequent to June 30th in any year, the license fee for the remainder of that year shall be one half of the annual license fee. Licenses issued under this chapter may not be assigned or transferred to other operators, managers, premises, or devices.

C. Applications for renewal of licenses issued under this chapter shall be filed with the licensing administrator on or before the expiration date provided for in this section in the same manner as the original application providing the administrator with current information and accompanied by payment of the same fees as are in effect for an original application for any license. (Ord. C-31010; Ord. C-31261)

**10.08.116 Licensing -- Compliance With
Other City Ordinances.**

All other City approvals and license issuance other than those specifically set forth herein are separate from the licensing process set forth in this chapter. The granting of any license or the providing of any approval pursuant to this chapter shall not be deemed to be an approval of any City license or approval not specifically set forth in this chapter. (Ord. C-31010)

10.08.117 Inspections.

A. Prior to the issuance of a license the applicant must be qualified according to the provisions of this chapter and the premises and devices must be inspected and found to be in compliance with the law by the license administrator or his/her designee.

B. Licensees operating premises, devices and/or holding managers' licenses under this chapter shall hold those areas upon the premises which are accessible to the public and the devices therein open for routine regulatory inspections by licensing personnel during business hours to ensure compliance with the requirements of this chapter. This section shall not restrict or limit the right of entry vested in any law enforcement agency, health department or the fire department. (Ord. C-31010)

10.08.118 Issuance of License.

A. The licensing administrator shall approve the issuance of a license to an applicant after receipt of an application unless he/she finds one or more of the following to be true:

1. An applicant is under eighteen years of age.

2. An applicant or an applicant's spouse is overdue in his/her payment to the City of taxes, fines, or penalties assessed against him/her or imposed upon him/her in relation to an adult entertainment establishment (regardless of whether the entertainment establishment contains adult arcade devices).

3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

4. An applicant is residing with a person who has been denied a license by the City to operate an adult entertainment establishment (regardless of whether the entertainment establishment contains adult arcade devices) within the preceding twelve months, or residing with a person whose license to operate an adult entertainment establishment (regardless of whether the entertainment establishment contains adult arcade devices) has been revoked within the preceding twelve months.

5. The premises to be used for the adult arcade premises have been found by the health department, fire department, building official, or licensing administrator as not in compliance with applicable laws and ordinances.

6. The license fee required by this ordinance⁷ has not been paid.

7. An application of the proposed adult arcade premises is in violation of or is not in compliance with any of the provisions of this chapter.

8. An applicant has been convicted of any of the following criminal offenses in any jurisdiction:

- a. prostitution, procuring a prostitute, or solicitation of a prostitute;
- b. sale, distribution, or display of obscene material;
- c. sale, distribution, or display of material which is harmful to minors;
- d. soliciting, procuring, or aiding and abetting an unlawful sexual performance by a minor;

e. possession, sale, or distribution of child pornography;

- f. public lewdness;
- g. indecent exposure;
- h. indecent conduct with a child;
- i. sexual assault or rape;
- j. incest;
- k. sexual solicitation of a child;
- l. contributing to the delinquency of

a minor;

- m. harboring a runaway child;

and where

i. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense, or

ii. less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense, or

iii. less than five years have elapsed since the date of last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four month period.

9. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

10. An applicant who has been convicted of an offense listed in paragraph 10.08.118.A.8 may qualify for a sexually oriented business license only when the time period herein has elapsed.

B. The license, if granted, shall state on its face the name of the person or persons to whom

it is granted, the expiration date, and the address of the adult arcade premise. (Ord. C-31010; Ord. C-31261)

10.08.119 Expiration of License

Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in this chapter. Application for renewal should be made at least thirty days before the expiration date, but the pendency of a renewal application will not delay expiration. (Ord. C-31010; Ord. C-31261)

10.08.1191 Application Approval or Denial -- Appeal.

A. The license application shall be approved or disapproved within fifteen working days from the date of filing of a completed application which complies with the requirements of this chapter, unless the applicant agrees to an extension of the time period in writing.

B. In the event that the licensing administrator denies a license, the licensing administrator shall within the aforesaid fifteen-day period notify the applicant of the denial, in writing, and the reasons therefor. At any time before the notice is issued, the applicant may request, in writing, that the period for approval or denial be extended for an additional period of not more than ten days in order to make modifications necessary to comply with this chapter.

C. An applicant may appeal the decision of the licensing administrator regarding a denial to the hearing examiner by filing a written notice of appeal within fifteen days after the applicant is given notice of the licensing administrator's decision. The applicant may within the time for notice of appeal request a hearing by the hearing examiner to be held within ten days of the request. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The licensing administrator or a representative may submit a memorandum in response to the memorandum filed by the applicant on appeal. After reviewing the relevant information the hearing examiner shall decide to uphold or overrule the licensing administrator's decision. Such decision shall be made within forty-five calendar days after the date on which the hearing examiner receives the notice of appeal.

If a timely request for appeal is not filed by the applicant, the order of denial by the licensing administrator shall be final; provided that the licensing administrator may waive the fifteen-day requirement upon satisfaction that failure to receive notice of the licensing administrator's denial was beyond the control of the applicant.

D. The applicant may appeal the decision of the hearing examiner by filing a written notice of appeal within thirty days after the applicant is given notice of the hearing examiner's decision. Said appeal is to a court of law. (Ord. C-31010; Ord. C-31261)

10.08.11910 Continuation of Business While Licensing Administrator and Hearing Examiner Decision Pending.

Except in the case of a license suspension or revocation, whenever a timely request for appeal of a denial to renew a license is filed with the licensing administrator, the hearing examiner, or a court, a licensee may engage in the activity for which the license was required pending the decision from the licensing administrator, the hearing examiner, or the court. An applicant not licensed when the current application was made may not engage in the activity for which the license is required pending decision by the licensing administrator, the hearing examiner, or the court. (Ord. C-31261)

10.08.1192 Suspension of Licenses.

The licensing administrator shall suspend any license issued pursuant to this chapter for a period of time not to exceed thirty days where one or more of the following conditions exist:

A. The license was procured by fraud or false representation of fact in the application or in any report or record required to be filed with the licensing administrator;

B. The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this chapter;

C. The licensee or his/her agent or employee has refused to allow an inspection of the premises as authorized by this chapter;

D. The licensee, his/her employee, agent, partner, director, officer or manager, has violated or permitted violation of any provisions of this chapter. (Ord. C-31010)

10.08.1193 Revocation of Licenses.

A. The licensing administrator shall revoke a license if a cause of suspension in Section 10.08.1192 occurs and the license has been suspended within the preceding twelve months.

B. The licensing administrator shall also revoke a license if he/she determines that:

1. a licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

2. a licensee or an employee has knowingly allowed prostitution on the premises;

3. a licensee or an employee has knowingly operated the adult arcade business during a period of time when the licensee's license was suspended;

4. a licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted and/or licensed premises;

5. a licensee is delinquent in payment to the City for any taxes or fees;

6. the owner or operator of the adult arcade premises has knowingly allowed a person under eighteen years of age to enter an establishment;

7. there was a change of owner or operator for which a transfer application was not timely filed;

8. a licensee has been convicted, since the license was issued, of any of the following criminal offenses in any jurisdiction:

a. prostitution, procuring a prostitute, or solicitation of a prostitute;

b. sale, distribution, or display of obscene material;

c. sale, distribution, or display of material which is harmful to minors;

d. soliciting, procuring, or aiding and abetting an unlawful sexual performance by a minor;

e. possession, sale, or distribution of child pornography;

f. public lewdness;

g. indecent exposure;

h. indecent conduct with a child;

i. sexual assault or rape;

j. incest;

k. sexual solicitation of a child;

l. contributing to the delinquency of a minor;

m. harboring a runaway child;

and where

i. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense, or

ii. less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense, or

iii. less than five years have elapsed since the date of last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four month period.

9. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

10. An applicant who has been convicted of an offense listed in paragraph 10.08.118.A.8 may qualify for a sexually oriented business license only when the time period herein has elapsed.

C. When the licensing administrator revokes a license for a violation of paragraphs 10.08.1193.B.1, 2, 3, 4, 6, or 8, the revocation shall continue for one year and the licensee shall not be issued a license for an adult arcade premise for one year from the date revocation became effective. If, subsequent to revocation, the licensing administrator finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety days have elapsed since the date the revocation became effective. If the license was revoked under paragraph 10.08.1193.B.8, an applicant may not be granted another license until the appropriate number of years required herein has elapsed. (Ord. C-31010; Ord. C-31261)

10.08.1194 Procedure for Suspension or Revocation.

The procedure for revoking or suspending a license under this chapter shall be the following:

A. Upon determining that grounds for revocation or suspension exist, the licensing administrator shall notify the licensee of intent to revoke or suspend the license.

B. Said notice shall set forth the grounds for suspension or revocation and schedule a hearing before the hearing examiner. The hearing shall be held no earlier than ten and not later than ten working days from the date of notice of intent to revoke.

C. The licensee shall be permitted to present evidence in support of his/her position at the hearing.

D. Within fifteen working days after the hearing, the hearing examiner shall notify the licensee in writing of the hearing examiner's determination and reasons therefor. The hearing examiner's determination shall become final and a suspension or revocation shall be given immediate effect. (Ord. C-31010)

10.08.1195 Transfer of License.

A licensee shall not transfer his/her license to another. The licensee shall not operate an adult arcade premise or device under the authority of a license at any place other than the address designated in the application. A licensee holding a manager's license shall not utilize that license at any place other than the address designated in the application. (Ord. C-31010)

10.08.1196 Denial Review.

After denial of an application, or denial of the renewal of an application, or suspension or revocation of a license by the licensing administrator or hearing examiner, the applicant and/or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The aggrieved party may appeal the decision of the licensing administrator or hearing examiner to a court in this county within thirty days. (Ord. C-31010; Ord. C-31261)

10.08.1197 Notices.

A. Any notice required or permitted to be given by the licensing administrator, hearing examiner, or any other City office, division, department, or other agency under this chapter to any applicant, licensee, operator or owner of an arcade premise or device shall be given, either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or transfer application which has been received by the licensing administrator, or any notice of

address change which has been received by the licensing administrator. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the licensing administrator or his/her designee shall cause it to be posted at the principal entrance to the establishment.

B. Any notice required or permitted to be given to the licensing administrator or hearing examiner by any person under this chapter shall not be deemed given until and unless it is received in the office of the licensing administrator.

C. It shall be the duty of each owner or operator who is designated on the license application to furnish notice to the licensing administrator in writing of any change of residence or mailing address. (Ord. C-31010)

10.08.120 Civil Remedies.

The violation of or failure to comply with or perform any duty within the provisions of SMC Sections 10.08.100 and 10.08.110 is declared to be unlawful and a public nuisance. The City of Spokane may seek legal or equitable relief to enjoin any act or practice which constitutes or will constitute a violation of any regulation herein adopted. (Ord. C-30808)

10.08.130 Criminal Penalties.

A person having a duty or failing to comply with provisions contained within SMC Sections 10.08.100 and 10.08.110 commits a misdemeanor if the person knowingly fails to fulfill that duty. Each separate day or any portion thereof during which any violation of any provision of this ordinance⁴ occurs or continues is a separate and distinct offense. (Ord. C-30808)

10.08.140 Code Violations and Enforcement.

The remedies provided herein for violations of or failure to comply with provisions of this ordinance⁴, whether civil or criminal, are cumulative and in addition to any other remedy provided by law. (Ord. C-30808)

10.08.150 Conflicting Sections or Provisions.

In the event there is a conflict or inconsistency between the sections and provisions set forth in this ordinance⁴ and those set forth elsewhere in the Spokane Municipal Code, the

sections and provisions of this ordinance⁴ govern and supersede those set forth elsewhere. (Ord. C-30808)

10.08.160 Time Frame for Compliance of Nonconforming Adult Arcade Devices or Premises.

Any adult arcade premise lawfully operating on July 7, 1993, that is in violation of the configuration or operational requirements of this chapter is a nonconforming use. The nonconforming use is permitted to continue for a period not to exceed sixty days, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty days or more. Such nonconforming uses may not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. (Ord. C-30808)

10.08.170 Ordinance Not Intended Towards Particular Group or Class.

A. It is the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this chapter.

B. Nothing contained in this chapter is intended or shall be construed to create or form the basis for any liability on the part of the City or its officers, employees, or agents for any injury or damage

1. resulting from the failure of any owner, operator, manager, or other person in charge of premises to comply with the provisions of this chapter, or

2. by reason or in consequence of any inspection, notice, order, certificate, permission, or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this chapter, or

3. by reason of any action or inaction on the part of the City related in any manner to the enforcement of this chapter by its officers, employees, or agents. (Ord. C-30808; Ord. C-31261)

10.08.180 Severability Clause.

If any provision of this ordinance⁷ shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively

presumed that this ordinance would have been enacted without the provision so held unconstitutional or invalid, and the remainder of the ordinance shall not be affected as a result of said part being held unconstitutional.

Article 3 -- Liquor

10.08.200 Opening or Consuming Liquor in Public Place -- Penalty.

Except as permitted by Title 66 RCW, no person may open the package containing liquor or consume liquor in a public place. Every person who violates any provision of this section is guilty of a misdemeanor, and on conviction therefor shall be fined not more than one hundred dollars. (Ord. C-31705)

Cross-reference: RCW 66.44.100

10.08.210 Furnishing Liquor to Minors -- Possession, Use -- Exhibition of Effects -- Exceptions.

A. It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft.

B. 1. It is unlawful for any person under the age of twenty-one years to possess, consume, or otherwise acquire any liquor.

2. It is unlawful for a person under the age of twenty-one years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either:

a. is in possession of or close proximity to a container that has or recently had liquor in it; or

b. by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. This paragraph B.2 does not apply if the person is in the presence of a parent or guardian or has consumed or is consuming liquor under circumstances described in subsection D or E of this section.

C. Subsection A and paragraph B.1 of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection does not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter 66.24 RCW.

D. This section does not apply to liquor given for medicinal purposes to a person under the age of twenty-one years by a parent, guardian, physician, or dentist.

E. This section does not apply to liquor given to a person under the age of twenty-one years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

F. Conviction or forfeiture of bail for a violation of this section by a person under the age of twenty-one years at the time of such conviction or forfeiture shall not be a disqualification of that person to acquire a license to sell or dispense any liquor after that person has attained the age of twenty-one years. (Ord. C-31705)

Cross-reference: RCW 66.44.270

10.08.220 Minor Purchasing or Attempting to Purchase Liquor.

Every person under the age of twenty-one years who purchases or attempts to purchase liquor shall be guilty of a violation of this title. (Ord. C-31792)

Cross-reference: RCW 66.44.290

10.08.230 Minor Purchasing or Attempting to Purchase Liquor -- Penalty Against Persons Between Ages of Eighteen and Twenty, Inclusive.

Every person between the ages of eighteen and twenty, inclusive, who is convicted of a violation of Section 10.08.220 or RCW 66.44.290 is guilty of a misdemeanor punishable as provided by RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community service shall require not fewer than twenty-five hours of such service. (Ord. C-31792)

Cross-reference: RCW 66.44.291

10.08.240 Sales of Liquor to Minors a Violation.

Every person who shall sell any intoxicating liquor to any minor shall be guilty of a violation of this chapter. (Ord. C-31792)

Cross-reference: RCW 66.44.320

10.08.250 General Penalties -- Jurisdiction for Violations.

A. Every person guilty of a violation of this article for which no penalty has been specifically provided shall be liable, on conviction, for a first offense to a penalty of not more than five hundred dollars, or to imprisonment for not more than two months, or both; for a second offense to imprisonment for not more than six months; and for a third or subsequent offense to imprisonment for not more than one year. If the offender convicted of an offense referred to in this section is a corporation, it shall for a first offense be liable to a penalty of not more than five thousand dollars, and for a second or subsequent offense to a penalty of not more than ten thousand dollars, or to forfeiture of its corporate license, or both.

B. Every district judge and municipal judge shall have concurrent jurisdiction with superior court judges of the state of Washington of all violations of the provisions of this title and may impose any punishment provided therefor. (Ord. C-31792)

Cross-reference: RCW 66.44.180

Article 4. Inhaling Toxic Fumes

10.08.300 Definition.

As used in this chapter, the phrase "substance containing a solvent having the property of releasing toxic vapors or fumes" shall mean and include any substance containing one or more of the following chemical compounds:

- A. Acetone;
- B. Amylacetate;
- C. Benzol or benzene;
- D. Butyl acetate;
- E. Butyl alcohol;
- F. Carbon tetrachloride;
- G. Chloroform;
- H. Cyclohexanone;
- I. Ethanol or ethyl alcohol;
- J. Ethyl acetate;
- K. Hexane;
- L. Isopropanol or isopropyl alcohol;
- M. Isopropyl acetate;
- N. Methyl "cellosolve" acetate;

- O. Methyl ethyl ketone;
- P. Methyl isobutyl ketone;
- Q. Toluol or toluene;
- R. Trichloroethylene;
- S. Tricresyl phosphate;
- T. Xylol or xylene; or
- U. Any other solvent, material

substance, chemical, or combination thereof, having the property of releasing toxic vapors. (Ord. C-31792)

Cross-reference: RCW 9.47A.010

10.08.310 Unlawful Inhalation -- Exception.

It is unlawful for any person to intentionally smell or inhale the fumes of any type of substance as defined in Section 10.08.300 or RCW 9.47A.010 or to induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses of the nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes. This section does not apply to the inhalation of any anesthesia for medical or dental purposes. (Ord. C-31792)

Cross-reference: RCW 9.47A.020

10.08.320 Possession of Certain Substances Prohibited, When.

No person may, for the purpose of violating Section 10.08.310 or RCW 9.47A.020, use, or possess for the purpose of so using, any substance containing a solvent having the property of releasing toxic vapors or fumes. (Ord. C-31792)

Cross-reference: RCW 9.47A.030

10.08.330 Sale of Certain Substances Prohibited, When.

No person may sell, offer to sell, deliver, or give to any other person any container of a substance containing a solvent having the property of releasing toxic vapors or fumes, if he has knowledge that the product sold, offered for sale, delivered, or given will be used for the purpose set forth in Section 10.08.310 or RCW 9.47A.020. (Ord. C-31792)

Cross-reference: RCW 9.47A.040

10.08.340 Penalty.

Any person who violates Sections 10.08.310 through 10.08.330 shall be guilty of a misdemeanor and, upon conviction thereof, shall

10.08.340

be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or by both. (Ord. C-31792)

Cross-reference: RCW 9.47A.050

Chapter 10.09

DOMESTIC VIOLENCE

Sections:

- 10.09.010 Definitions.
 10.09.020 Restraining Orders -- Notice --
 Refusal to Comply -- Arrest--
 Penalty -- Defense -- Peace
 Officers, Immunity.
 10.09.030 Restraining Orders -- Notice --
 Refusal to Comply -- Arrest
 -- Penalty -- Defense --
 Peace Officers, Immunity.
 10.09.040 Restraining Order -- Knowing
 Violation -- Penalty -- Law
 Enforcement Immunity.
 10.09.050 Violation of No-Contact Order.
 10.09.060 Violation of Protective Order.
 10.09.070 Interfering with Reporting of
 Domestic Violence.
 10.09.100 Powers and Duties of Law
 Enforcement Officers.

10.09.010 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

A. "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

B. "Dating relationship" has the same meaning as in RCW 26.50.010.

C. "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

1. [Reserved];
2. [Reserved];
3. [Reserved];

4. Assault in the fourth degree (Section 10.11.010);

5. [Reserved];

6. Reckless endangerment in the second degree (Section 10.11.020);

7. Coercion (Section 10.11.030);

8. [Reserved];

9. [Reserved];

10. Criminal trespass in the first degree (Section 10.12.050.A);

11. Criminal trespass in the second degree (Section 10.12.050.B);

12. [Reserved];

13. [Reserved];

14. Malicious mischief in the third degree (Section 10.12.020);

15. [Reserved];

16. [Reserved];

17. [Reserved];

18. Violation of the provisions of a restraining order restraining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care (Section 10.09.020, 030, or 040);

19. Violation of the provisions of a protection order or no-contact order restraining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, 10.99.050, or [SMC] Section 10.09.050);

20. [Reserved];

21. [Reserved];

22. [Reserved];

23. Stalking (Section 10.11.060); and

24. Interference with the reporting of domestic violence (Section 10.09.070).

D. "Victim" means a family or household member who has been subjected to domestic violence. (Ord. C-31742)

Cross-reference: RCW 10.99.020

**10.09.020 Restraining Orders -- Notice --
 Refusal to Comply -- Arrest --
 Penalty -- Defense --Peace
 Officers, Immunity.**

A. Whenever a restraining order is issued under this chapter or chapter 26.09 RCW, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision excluding the person from the

10.09.020

residence, workplace, school, or day care of another is a misdemeanor.

B. A person is deemed to have notice of a restraining order if:

1. The person to be restrained or the person's attorney signed the order;

2. The order recites that the person to be restrained or the person's attorney appeared in person before the court;

3. The order was served upon the person to be restrained; or

4. The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

C. A peace officer shall verify the existence of a restraining order by:

1. Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

2. Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

D. A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

1. A restraining order has been issued under this chapter;

2. The respondent or person to be restrained knows of the order; and

3. The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from the residence.

E. It is a defense to prosecution under subsection A of this section that the court order was issued contrary to law or court rule.

F. No peace officer may be held criminally or civilly liable for making an arrest under subsection D of this section if the officer acts in good faith and without malice. (Ord. C-31742)

Cross-reference: RCW 26.09.300

10.09.030 Restraining Orders -- Notice -- Refusal to Comply -- Arrest -- Penalty-- Defense -- Peace Officers, Immunity.

A. Whenever a restraining order is issued under this chapter or chapter 26.10 RCW, and

the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision excluding the person from the residence, workplace, school, or day care of another is a misdemeanor.

B. A person is deemed to have notice of a restraining order if:

1. The person to be restrained or the person's attorney signed the order;

2. The order recites that the person to be restrained or the person's attorney appeared in person before the court;

3. The order was served upon the person to be restrained; or

4. The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

C. A peace officer shall verify the existence of a restraining order by:

1. Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

2. Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

D. A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

1. A restraining order has been issued under this chapter;

2. The respondent or person to be restrained knows of the order; and

3. The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from the residence.

E. It is a defense to prosecution under subsection A of this section that the court order was issued contrary to law or court rule.

F. No peace officer may be held criminally or civilly liable for making an arrest under subsection D of this section if the officer acts in good faith and without malice. (Ord. C-31742)

Cross-reference: RCW 26.10.220

10.09.040 Restraining Order -- Knowing Violation -- Penalty -- Law Enforcement Immunity.

A. Whenever a restraining order is issued under this chapter or chapter 26.26 RCW, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision excluding the person from the residence, workplace, school, or day care of another is a misdemeanor.

B. A person is deemed to have notice of a restraining order if:

1. The person to be restrained or the person's attorney signed the order;
2. The order recites that the person to be restrained or the person's attorney appeared in person before the court;
3. The order was served upon the person to be restrained; or
4. The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

C. A peace officer shall verify the existence of a restraining order by:

1. Obtaining information confirming the existence and terms of the order from a law enforcement agency; or
2. Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

D. A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

1. A restraining order has been issued under this chapter;
2. The respondent or person to be restrained knows of the order; and
3. The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from the residence.

E. It is a defense to prosecution under subsection A of this section that the court order was issued contrary to law or court rule.

F. No peace officer may be held criminally or civilly liable for making an arrest under

subsection D of this section if the officer acts in good faith and without malice. (Ord. C-31742)
Cross reference: RCW 26.26.138

10.09.050 Violation of No-Contact Order.

Willful violation of a court order issued under subsection (2) or (3) of RCW section 10.99.040 is a gross misdemeanor except as provided in RCW 10.99.040(4)(b) and (c). Upon conviction and in addition to other penalties provided by law, the court may require that the defendant submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The court also may include a requirement that the defendant pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring. (Ord. C-31742)

Cross-reference: RCW 10.99.040(4)

10.09.060 Violation of Protection Order.

Violation of the provisions of a protection order or no-contact order restraining the persons or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, issued under RCW 10.99.050, 26.50.060, 26.50.070, or 26.50.130 is a gross misdemeanor. (Ord. C-31742)

Cross-reference: RCW 10.99.020

10.09.070 Interfering with Reporting of Domestic Violence.

A. A person commits the crime of interfering with the reporting of domestic violence if the person:

1. Commits a crime of domestic violence, as defined in RCW 10.99.020, or the equivalent provisions of this title; and
2. Prevents or attempts to prevent the victim of or a witness to that domestic violence crime from calling a 911 emergency communication system, obtaining medical assistance, or making a report to any law enforcement official.

B. Commission of a crime of domestic violence under subsection A of this section is a necessary element of the crime of interfering with the reporting of domestic violence.

C. Interference with the reporting of domestic violence is a gross misdemeanor. (Ord. C-31742)

Cross-reference: RCW 9A.36.150

10.09.100 Powers and Duties of Law Enforcement Officers.

A. - E. [Reserved]

F. 1. When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

2. A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

G. When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following:

(a) an order restraining your abuser from further acts of abuse;

(b) an order directing your abuser to leave your household;

(c) an order preventing your abuser from entering your residence, school, business, or place of employment;

(d) an order awarding you or the other parent custody of or visitation with your minor child or children; and

(e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.

Information about shelters and alternatives to domestic violence is available from a state-wide twenty-four-hour toll-free hotline at (include appropriate phone number). The battered women's shelter and other resources in your area are (include local information)"

H. The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

I. The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

J. Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

K. Records kept pursuant to subsections F and J of this section shall be made identifiable by means of a departmental code for domestic violence.

L. [Reserved] (Ord. C-31472)

Cross-reference: RCW 10.99.030.

Chapter 10.10

OFFENSES AGAINST PEACE AND ORDER

Sections:

10.10.010	Failure to Disperse.
10.10.020	Disorderly Conduct.
10.10.025	Pedestrian Interference
10.10.030	Disorderly Place.
10.10.040	Public Park.
10.10.050	Municipal Public Assembly Facilities.
10.10.060	Skywalks -- Prohibited Acts.
10.10.062	Skywalks -- Animals Prohibited.
10.10.064	Skywalks -- Littering.
10.10.068	Skywalks -- Penalty.
10.10.070	Graffiti Prohibited.
10.10.080	Graffiti Defined.
10.10.090	Removal of Graffiti.
10.10.100	Unlawful Bus Conduct.

10.10.010 Failure to Disperse.

No person may congregate with a group of three or more other persons and there are acts of conduct within that group which create a substantial risk of causing injury to any person, or substantial harm to property; and refuse or fail to disperse when ordered to do so by a peace officer or other public servant engaged in enforcing or executing the law. (Ord. C-28629)
Cross-reference: RCW 9A.84.020

10.10.020 Disorderly Conduct.

No person with intent to cause, or recklessly creating, a risk of public inconvenience, annoyance, or alarm may

A. engage in fighting or in violent, tumultuous, or threatening behavior; or

B. make unreasonable noise; or

C. disturb any lawful assembly of persons without lawful authority; or

D. use any obscene or abusive language, or gestures in a manner likely to provoke a violent or disorderly response. (Ord. C-28629; Ord. C-31213)

Cross-reference: RCW 9A.84.030

10.10.025 Pedestrian Interference.

A. Consistent with the findings of other Washington State cities, the city council finds that it is important to the general welfare of the citizens and residents of the city to protect and preserve the public safety of pedestrians and to insure the safe and efficient movement of

pedestrian and vehicular traffic in public places. The city council further finds that public places as defined in this section serve the primary purpose of enabling pedestrian and vehicular traffic to safely and efficiently move about from place to place and that public places in the urban core have become increasingly congested and should be maintained to serve their primary purpose. Spokane, as well as other cities in Washington, has experienced an increase in the number of incidents of aggressive solicitation by individuals towards pedestrians and that pedestrian interference in public places deteriorates from the primary purpose and threatens public health, safety and welfare. The City has a compelling interest in protecting its citizens from threatening, intimidating, or harassing behavior caused by aggressive solicitations, in preserving the quality of life in its urban center and in protecting and preserving the public health, safety and welfare.

B. The following definitions apply in this section:

1. "Aggressively solicit" means to solicit with the intent to intimidate another person into giving money or goods regardless of the solicitor's purpose or intended use of the money or goods.

2. "Intimidate" means to engage in conduct which would make a reasonable person fearful of imminent harm to his or her person or property or feel threatened.

3. "Solicit" means to ask for money or goods, whether by words, bodily gestures, signs, or other means.

4. "Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such manner as to intentionally block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional rights, and acts authorized by an obstruction permit issued pursuant to Sections 4.03.120.D, 12.02.0706, or 12.02.0730 do not constitute obstruction of pedestrian or vehicular traffic.

5. "Public place" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including those that serve food or drink or provide entertainment, and the

doors and entrances to buildings or dwellings and the grounds enclosing them.

C. A person is guilty of pedestrian interference if, in a public place, he or she intentionally

1. obstructs pedestrian or vehicular traffic, or

2. aggressively solicits.

D. Pedestrian interference is a misdemeanor.

E. The provisions of this ordinance⁸ are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances. (Ord. C-31213)

10.10.030 Disorderly Place.

No owner, operator, or manager of a place of public accommodation may wilfully allow breach of the peace or disturbance of public order or decorum by noisy, riotous, or disorderly conduct or otherwise keep the place in a disorderly manner. (Ord. C-25103, § 6.03.600)

10.10.040 Public Park.

A. No person may violate such rules and regulations as may from time to time be promulgated by the park board or the director of parks and recreation pursuant to and in supplementation of the city charter and this code.

B. Except when done in places designated and in the manner prescribed by rule, regulation, or special permission of the park board or department, no person may:

1. solicit donations or collections, such as for entertainment by strolling musicians or other performers, or peddle or hawk any goods or services;

2. operate any public address or loudspeaker system, or operate any radio or other electronic audio device in such a manner that the device makes extreme noise which offends the common sensibilities and senses of others;

3. ride, drive, or park any vehicle or animal except along designated drives, ways, boulevards, or paths; or move at a speed in excess of fifteen miles per hour unless otherwise posted; or otherwise operate or drive any vehicle or mobile device, including bicycles, skateboards

and roller skates, in a manner which is likely to endanger persons and/or property; or ride or drive a vehicle at a speed in excess of five miles per hour in Riverfront Park; or

4. ride or drive any motorized vehicle on the grass; or park outside designated parking areas.

5. play or practice any game or activity, such as golf, hacky-sack, or baseball, involving running or the throwing or hitting of a ball or other missile when and where such activity is or is likely to be dangerous to others or upon drives, ways, boulevards, or paths.

C. No person may allow any animal to run at large in any park or enter any pond, pool, fountain, or stream thereof.

D. No person may possess or consume in any park any liquor, except as specifically authorized by law.

E. No person may operate any type of watercraft in or upon water within or bordering any park.

F. No person may in any park possess any dangerous weapon as defined in Chapter 9.41 RCW, unless authorized by park department rule, regulation, or special permission of the park board, park department, or police department; or shoot, fire, or explode any firearm, fireworks, explosive, bow and arrow, slingshot, or other weapon, toy or real, which discharges a pellet or other object with harmful force.

G. No person may camp in any park except at places set aside for such purposes by the park board and designated by signs, or by special permission of the department.

H. Where the park board has provided for the collection of fees, rents, or charges for the use of park facilities, including municipal golf courses, no person may enter upon or use such park facilities without paying such required fees, rents, or charges.

I. All City parks shall be closed from 11:00 p.m. to 4:00 a.m., Pacific Daylight Time, or 10:00 p.m. to 5:00 a.m., Pacific Standard Time, except Riverfront Park, which shall close at midnight throughout the year. No person may be in a city park during the hours of closure without the express permission of the park board or the director of parks and recreation.

J. No person may build a fire except in designated fireplaces and park-supplied barbecue pits.

K. No person may disturb or attack any wildlife in any park.

L. No person may dig holes in any park or cut or trim park trees or landscaping.

M. Swimming pools, wading pools, softball diamonds and basketball courts may be used only during hours designated by the park board. (Ord. C-30899)

Cross-reference: Sections 10.12.020, 10.24.060, Chapter 12.06.

10.10.050 Municipal Public Assembly Facilities.

No person shall bring into any City public assembly facility any cans, bottles, alcoholic beverages, controlled substances, guns, knives, or other such devices which are weapons or apparently capable of use as weapons. The public assembly facilities are the Spokane Opera House, the Convention Center, Joe Albi Stadium, and the Spokane Coliseum. This shall not prohibit legitimate operations of licensed concessionaires or other persons authorized by the Spokane Riverpark Center director. (Ord. C-28629)

10.10.060 Skywalks -- Prohibited Acts.

A. No person may commit any of the following acts within the pedestrian skywalk system or within any pedestrian mall:

1. sit, kneel, lounge, lie, or otherwise recline upon floors or stairs;

2. stand upon any radiator, seat or other fixture;

3. commit any act which tends to create or incite, or creates or incites, an immediate breach of the peace. Such conduct includes without limitation

a. fighting,

b. racing,

c. obscene language and noisy or boisterous conduct tending to cause a breach of the peace, and

d. personally abusive epithets, or words or language of an offensive, disgusting or insulting nature, which epithets, words or language when addressed to the ordinary citizen are, as a matter of common knowledge, inherently likely to provoke a violent reaction of fear, anger or apprehension;

4. stand, stop or otherwise linger in such a manner as to obstruct or impede or tend to obstruct or impede the free passage of pedestrians through the area. If the impediment or obstruction is caused by the size of a particular group of persons, all persons within the group are equally subject to this section.

5. Operate any radio, tape player, or other electronic audio device in such a manner that the device makes extreme noise which offends the common sensibilities and senses of others.

B. Whenever any peace officer observes a person committing any of the acts enumerated in this section or has probable cause to believe that a person has committed any of the said acts, the officer shall order the person to refrain from doing the proscribed conduct. Any person who shall refuse to refrain from such acts or conduct after being ordered to do so shall be liable for a violation punishable as a misdemeanor. (Ord. C-28629)

10.10.062 Skywalks -- Animals Prohibited.

No person may bring or cause to be brought any animal, or allow any animal under his ownership or control to be brought, into the pedestrian skywalk system or any other pedestrian mall, unless such animal is a police dog or a guide dog for a deaf or blind person. (Ord. C-28629)

10.10.064 Skywalks -- Littering.

No person may throw, deposit, discard or place, or cause to be thrown, deposited, discarded or placed, upon or within any surface in the pedestrian skywalk system or pedestrian mall any glass bottle, glass, nails, tacks, cans, garbage, swill, papers, refuse, offal, trash or rubbish. (Ord. C-28629)

10.10.068 Skywalks -- Penalty.

A violation of Section 10.10.060, 10.10.062, or 10.10.064 is a misdemeanor. (Ord. C-28629)

10.10.070 Graffiti Prohibited.

No person owning or in control of any property may allow the property to be used as a location for graffiti, or fail or refuse to remove, cover or grant permission to city personnel to remove or cover the graffiti from the property when so directed by a police officer. (Ord. C-30559; Ord. C-31705)

10.10.080 Graffiti Defined.

For the purposes of this chapter "graffiti" is any sign or symbol, including the painting of murals, placed upon property

A. by the application of a substance, such as paint, ink, dye, chalk, or other marks, or by the removal of material by scratching, carving, gouging, or cutting,

B. for the apparent purposes of communicating, in code or otherwise, among members of a club, organization, gang, or other group, any message, including the presence of the organization in a location,

C. which communication is likely to incite or foster violence or other criminal activity. (Ord. C-30559)

10.10.090 Removal of Graffiti.

A. Whenever a marking is determined by a designated police officer to constitute graffiti, a law enforcement officer may direct any owner or other person in possession of the property upon which the graffiti has been placed to immediately remove or cover the graffiti, or in the alternative, grant permission for city personnel to enter upon the premises and remove or cover the graffiti, waiving any claims for trespass or resulting damage to the property.

B. The City may charge the property owner or the person in possession of the property the cost to the City for the removal or covering of the graffiti when the removal or covering is performed by City personnel.

C. Any owner or other in possession who fails to comply with the police officer's direction under this section violates Section 10.10.070. (Ord. C-30559)

10.10.100 Unlawful Bus Conduct.

A. Consistent with the findings of the Washington State Legislature, the city council finds that it is important to the general welfare of the citizens and residents of the city to protect and preserve public safety in the operation of public transportation facilities and vehicles, and to protect the personal safety of both passengers and employees. The city council further finds that public transportation services will be utilized more fully by the general public if it is assured of personal safety and security in such utilization.

B. A person is guilty of unlawful bus conduct if, while on or in a municipal transit vehicle as defined in RCW 46.04.355, or in or at a municipal transit station as defined in subsection C, and with knowledge that such conduct is prohibited, the person

1. except at a designated place, smokes or carries a lighted or smoldering pipe, cigar, or cigarette;

2. discards litter other than in designated receptacles;

3. plays any radio, recorder, or other sound-producing equipment, except that nothing herein prohibits

a. the use of such equipment when connected to earphones that limit the sound to individual listeners, or,

b. the use of a communication device by an employee of the owner or operator of the municipal transit vehicle or municipal transit station;

4. spits or expectorates;

5. carries any flammable liquid, explosive, acid, or other article or material likely to cause harm to others, except that nothing herein prevents a person from

a. carrying a cigarette, cigar, or pipe lighter, or

b. carrying a firearm or ammunition in a way that is not otherwise prohibited by law;

6. intentionally obstructs or impedes the flow of municipal transit vehicles or passenger traffic, hinders or prevents access to municipal transit vehicles or stations, or otherwise unlawfully interferes with the provision or use of public transportation services;

7. intentionally disturbs others by engaging in loud, raucous, unruly, harmful, or harassing behavior; or

8. destroys, defaces, or otherwise damages property of a municipality as defined in RCW 35.58.272 employed in the provision or use of public transportation services.

C. For the purposes of this section "municipal transit station" means all facilities, structures, lands, interest in lands, air rights over lands and rights of way of all kinds that are owned, leased, held, or used by a municipality as defined in RCW 35.58.272 for the purpose of providing public transportation services, including but not limited to park and ride lots, transit centers and tunnels and bus shelters.

D. Unlawful bus conduct is a misdemeanor.

E. The provisions of this section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section, or portion, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this section or the validity of its application to other persons or circumstances. (Ord. C-31214)

Chapter 10.11

OFFENSES AGAINST THE PERSON

Sections:

- 10.11.010 Assault.
- 10.11.020 Reckless Endangerment.
- 10.11.030 Coercion
- 10.11.040 Weapons. [Repealed]
- 10.11.042 Carrying Firearms.
- 10.11.044 Aiming or Discharging Firearms, Dangerous Weapons.
- 10.11.046 Dangerous Weapons -- Penalty.
- 10.11.048 Weapons Apparently Capable of Producing Bodily Harm -- Unlawful Carrying or Handling -- Penalty -- Exceptions.
- 10.11.050 Discharge of Firearms.
- 10.11.060 Stalking.

10.11.010 Assault.

A. No person may wilfully use or threaten to use by purposeful words or acts unlawful physical force against the person of another.

B. The penalty for violation of this section is a fine not to exceed five thousand dollars, or imprisonment for not more than one year, or both such fine and imprisonment. (Ord. C-28629)

Cross-reference: RCW 9A.36.040

10.11.020 Reckless Endangerment.

A. A person is guilty of city reckless endangerment when he recklessly engages in conduct not amounting to felony reckless endangerment under RCW 9A.36.045 but which creates a substantial risk of death or serious physical injury to another person.

B. City reckless endangerment is a gross misdemeanor. (Ord. C-28629; Ord. C-31742)
Cross-reference: Section 10.11.040; RCW 9A.36.050

10.11.030 Coercion.

A. A person is guilty of coercion if by use of a threat he compels or induces a person to engage in conduct which the latter has a legal right to abstain from, or to abstain from conduct which he has a legal right to engage in.

B. "Threat" as used in this section means:

1. To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
2. Threats as defined in RCW 9A.04.110(25)(a), (b), or (c).

C. Coercion is a gross misdemeanor. (Ord. C-31742)

Cross-reference: RCW 9A.36.070.

10.11.040 Weapons.

[Repealed -- Ord. C-31792]

10.11.042 Carrying Firearms.

A. 1. Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed pistol.

2. Every licensee shall have his or her concealed pistol license in his or her immediate possession at all times that he or she is required by this section to have a concealed pistol license and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. Any violation of this paragraph A.2 shall be a class 1 civil infraction under Section 1.05.210 and shall be punished accordingly pursuant to chapter 1.05 and the infraction rules for courts of limited jurisdiction.

B. A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed pistol and:

1. The pistol is on the licensee's person,
2. the licensee is within the vehicle at all times that the pistol is there, or
3. the licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle.

C. A person at least eighteen years of age who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.

D. Except as otherwise provided in this chapter, no person may carry a firearm unless it is unloaded and enclosed in an opaque case or secure wrapper or the person is:

1. Licensed under RCW 9.41.070 to carry a concealed pistol;
2. In attendance at a hunter's safety course or a firearms safety course;
3. Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;
4. Engaging in an organized competition involving the use of a firearm, or participating in

or practicing for a performance by an organized group that uses firearms as a part of the performance;

5. Engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;

6. In an area where the discharge of a firearm is permitted, and is not trespassing;

7. Traveling with any unloaded firearm in the person's possession to or from any activity described in paragraphs 2, 3, 4, 5, or 6 of this subsection, except as provided in paragraph 8 of this subsection;

8. Traveling in a motor vehicle with a firearm, other than a pistol, that is unloaded and locked in the trunk or other compartment of the vehicle, placed in a gun rack, or otherwise secured in place in a vehicle, provided that this paragraph D.8 does not apply to motor homes if the firearms are not within the driver's compartment of the motor home while the vehicle is in operation. Notwithstanding paragraph 10.11.042.D.1, and subject to federal and state park regulations regarding firearm possession therein, a motor home shall be considered a residence when parked at a recreational park, campground, or other temporary residential setting for the purposes of enforcement of this chapter;

9. On real property under the control of the person or a relative of the person;

10. At his or her residence;

11. Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty;

12. Is a law enforcement officer;

13. Carrying a firearm from or to a vehicle for the purpose of taking or removing the firearm to or from a place of business for repair; or

14. An armed private security guard or armed private detective licensed by the department of licensing, while on duty or en route to and from employment.

E. Violation of any of the prohibitions of subsections B through D of this section is a misdemeanor.

F. Nothing in this section permits the possession of firearms illegal to possess under state or federal law. (Ord. C-31792)
RCW 9.41.050

10.11.044 Aiming or Discharging Firearms, Dangerous Weapons.

A. For conduct not amounting to a violation of chapter 9A.36 RCW, any person who:

1. Aims any firearm, whether loaded or not, at or towards any human being;

2. Willfully discharges any firearm, air gun, or other weapon, or throws any deadly missile in a public place, or in any place where any person might be endangered thereby. A public place shall not include any location at which firearms are authorized to be lawfully discharged; or

3. Except as provided in RCW 9.41.185, sets a so-called trap, spring pistol, rifle, or other dangerous weapon, although no injury results, is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

B. If an injury results from a violation of subsection A of this section, the person violating subsection A of this section shall be subject to the applicable provisions of chapters 9A.32 and 9A.36 RCW. (Ord. C-31792)

Cross-reference: RCW 9.41.230

10.11.046 Dangerous Weapons -- Penalty.

Every person who:

A. Manufactures, sells, or disposes of or possesses any instrument or weapon of the kind usually known as slung shot, sand club, or metal knuckles, or spring blade knife, or any knife the blade of which is automatically released by a spring mechanism or other mechanical device, or any knife having a blade which opens, or falls, or is ejected into position by the force of gravity, or by an outward, downward, or centrifugal thrust or movement;

B. Furtively carries with intent to conceal any dagger, dirk, pistol, or other dangerous weapon; or

C. Uses any contrivance or device for suppressing the noise of any firearm, is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW. (Ord. C-31792)

Cross-reference: RCW 9.41.250

10.11.048 Weapons Apparently Capable of Producing Bodily Harm -- Unlawful Carrying or Handling -- Penalty -- Exceptions.

A. It shall be unlawful for any person to carry, exhibit, display, or draw any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

B. Any person violating the provisions of subsection A above shall be guilty of a gross misdemeanor. If any person is convicted of a violation of subsection A of this section, the person shall lose his or her concealed pistol license, if any. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

C. Subsection A of this section shall not apply to or affect the following:

1. Any act committed by a person while in his or her place of abode or fixed place of business;

2. Any person who by virtue of his or her office or public employment is vested by law with a duty to preserve public safety, maintain public order, or to make arrests for offenses, while in the performance of such duty;

3. Any person acting for the purpose of protecting himself or herself against the use of presently threatened unlawful force by another, or for the purpose of protecting another against the use of such unlawful force by a third person;

4. Any person making or assisting in making a lawful arrest for the commission of a felony; or

5. Any person engaged in military activities sponsored by the federal or state governments. (Ord. C-31792)

Cross-reference: RCW 9.41.270

10.11.050 Discharge of Firearms.

A. Except by permission of the chief of police, no person may wilfully, recklessly, or negligently discharge any firearm within the city.

B. Subsection A of this section does not apply to peace officers engaged in official functions, to other persons assisting peace officers at their direction in the apprehension of felony suspects, or to persons reasonably using

a firearm in the protection of persons or property against unlawful force.

C. A violation of this section is a gross misdemeanor. (Ord. C-28967; Ord. C-31792)

10.11.060 Stalking.

A. A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

1. He or she intentionally and repeatedly harasses or repeatedly follows another person; and

2. The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and

3. The stalker either:

a. Intends to frighten, intimidate, or harass the person; or

b. Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

B. 1. It is not a defense to the crime of stalking under subsection A.3.a of this section that the stalker was not given actual notice that the person did not want the stalker to contact or follow the person; and

2. It is not a defense to the crime of stalking under subsection A.3.b of this section that the stalker did not intend to frighten, intimidate, or harass the person.

C. It shall be a defense to the crime of stalking that the defendant is a licensed *private detective acting within the capacity of his or her license as provided by chapter 18.165 RCW.

D. Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person.

E. A person who stalks another person is guilty of a gross misdemeanor except that the person is guilty of a class C felony if any of the following applies:

1. The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW

9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a protective order;

2. the stalking violates any protective order protecting the person being stalked;

3. the stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person;

4. the stalker was armed with a deadly weapon, as defined in RCW 9.94A.125, while stalking the person;

5. the stalker's victim is or was a law enforcement officer, judge, juror, attorney, victim advocate, legislator, or community correction's officer, and the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or

6. the stalker's victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

F. As used in this section:

1. "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

2. "Harasses" means unlawful harassment as defined in RCW 10.14.020.

3. "Protective order" means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

4. "Repeatedly" means on two or more separate occasions. (Ord. C-31742)

Cross-reference: 9A.46.110

*Reviser's note: "Private detective" redesignated "private investigator" by 1995 c 277.

Chapter 10.12

OFFENSES AGAINST PROPERTY

Sections:

- 10.12.010 Disturbing Monument.
- 10.12.020 Malicious Mischief.
- 10.12.025 Malicious Mischief -- "Physical Damage" Defined.
- 10.12.030 Definitions.
- 10.12.040 Making or Having Burglar Tools.
- 10.12.050 Trespass.
- 10.12.055 Defenses to Trespass.
- 10.12.060 Vehicle Prowling in the Second Degree.

10.12.010 Disturbing Monument.

No person may remove, deface, disturb, or otherwise interfere with any monument, benchmark, or other surveying device or mark. (Ord. A-4202)

10.12.020 Malicious Mischief.

A. A person is guilty of malicious mischief in the third degree if he or she:

1. knowingly and maliciously causes physical damage to the property of another, under circumstances not amounting to malicious mischief in the first or second degree; or

2. Writes, paints, or draws any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person unless the person has obtained the express permission of the owner or operator of the property, under circumstances not amounting to malicious mischief in the first or second degree.

B. 1. Malicious mischief in the third degree under paragraph A.1 of this section is a gross misdemeanor if the damage to the property is in an amount exceeding fifty dollars; otherwise, it is a misdemeanor.

2. Malicious mischief in the third degree under paragraph A.2 of this section is a gross misdemeanor. (Ord. C-31705)

Cross-reference: RCW 9A.48.090

10.12.025 Malicious Mischief -- "Physical Damage" Defined.

For the purposes of Section 10.12.020:

A. "Physical damage", in addition to its ordinary meaning, includes the total or partial alteration, damage, obliteration, or erasure of

records, information, data, computer programs, or their computer representations, which are recorded for use in computers or the impairment, interruption, or interference with the use of such records, information, data, or computer programs, or the impairment, interruption, or interference with the use of any computer or services provided by computers. "Physical damage" also includes any diminution in the value of any property as the consequence of an act;

B. If more than one item of property is physically damaged as a result of a common scheme or plan by a person and the physical damage to the property would, when considered separately, constitute mischief in the third degree because of value, then the value of the damages may be aggregated in one count. (Ord. C-31705)

Cross-reference: RCW 9A.48.100

10.12.030 Prowling.

[Repealed. Ord. C-28629]

10.12.030 Definitions.

The following definitions apply in this chapter:

A. "Premises" includes any building, dwelling, structure used for commercial aquaculture, or any real property;

B. "Enter". The word "enter" when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person or to detach or remove property;

C. "Enters or remains unlawfully."

1. A person "enters or remains unlawfully" in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

2. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner.

Land that is used for commercial aquaculture or for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible or if notice is given by posting in a conspicuous manner. Similarly, a field fenced in any manner is not unimproved and apparently unused land;

D. "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a computer;

E. "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data;

F. "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, directly or by electronic means. (Ord. C-31792)

Cross-reference: RCW 9A.52.010

10.12.040 Trespass.

[Repealed. Ord. C-29574]

10.12.040 Making or Having Burglar Tools.

A. Every person who shall make or mend or cause to be made or mended, or have in his possession, any engine, machine, tool, false key, pick lock, bit, nippers, or implement adapted, designed, or commonly used for the commission of burglary under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of a burglary, or knowing that the same is intended to be so used, shall be guilty of making or having burglar tools.

B. Making or having burglar tools is a gross misdemeanor. (Ord. C-31792)

Cross-reference: RCW 9A.52.060

10.12.050 Trespass.

A. 1. A person is guilty of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a building.

2. Criminal trespass in the first degree is a gross misdemeanor.

B. 1. A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree.

2. Criminal trespass in the second degree is a misdemeanor. (Ord. C-29587; Ord. C-31742)

Cross-reference: RCW 9A.52.070, 080

10.12.055 Defenses to Trespass.

In any prosecution under Section 10.12.050 it is a defense that

A. a building involved in an offense under subsection 10.12.050.A was abandoned; or

B. the premises were at one time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or

C. the actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him to enter or remain; or

D. the actor was attempting to serve legal process which includes any document required or allowed to be served upon persons or property, by any statute, rule, ordinance, regulation, or court order, excluding delivery by the mails of the United States. This defense applies only if the actor did not enter into a private residence or other building not open to the public and the entry onto the premises was reasonable and necessary for service of the legal process. (Ord. C-29587)

Cross-reference: RCW 9A.52.090

10.12.060 Vehicle Prowling in the Second Degree.

A. A person is guilty of vehicle prowling in the second degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a vehicle other than a motor home, as defined in Section 16.04.305 or RCW 46.04.305, or a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities.

B. Vehicle prowling in the second degree is a gross misdemeanor. (Ord. C-31792)

Cross-reference: RCW 9A.52.100

Chapter 10.14

BOATING SAFETY

Sections:

10.14.010	Definitions.
10.14.020	Authority to Board.
10.14.030	Emergency Vessels.
10.14.040	Especially Hazardous Conditions.
10.14.050	Accident Reporting.
10.14.060	Personal Flotation Devices (PFD).
10.14.070	Lighting.
10.14.080	PFD Requirements for Commercial Vessels.
10.14.090	Ventilation on Motorboats.
10.14.100	Flame Arrester.
10.14.110	Fire Extinguishers.
10.14.120	Prevention of Noise and Smoke.
10.14.130	Sound Devices.
10.14.140	Speed Restrictions.
10.14.150	Vessel Loading.
10.14.160	Scuba Diving.
10.14.170	Water Skiing.
10.14.180	Operator Age Requirements.
10.14.190	Garbage and Sewage.
10.14.200	Safety Buoys.
10.14.210	Docks and Booms.
10.14.220	Operating a Vessel While Intoxicated Prohibited.
10.14.230	Negligent Operation.
10.14.240	Reckless Operation.
10.14.250	Steering and Sailing Rules.
10.14.260	Rules and Whistle Signals.
10.14.270	Motorboats Crossing.
10.14.280	Sailing Vessel Right-of-Way.
10.14.290	Privileged Vessel Duty.
10.14.300	Burdened Vessel Duty.
10.14.310	Overtaking Vessels.
10.14.900	Enforcement.

10.14.010 Definitions.

Terms in this chapter shall mean as follows:

A. "Boating accident" means a collision, sinking, fire, explosion, injury, or loss of life that involves a vessel, its equipment or its appendages.

B. "Boat livery" means a business which holds any vessel for renting or leasing.

C. "Buoy" means a floating device or marker anchored in the water.

D. "Buoy line" means a straight line that would exist if drawn between the closest safety buoys.

E. "dB" means the sound level measured in decibels using the "A" weighted network.

F. "Dock" means any manmade platform extending from the shoreline into the water.

G. "Flotation device" means any device used or capable of being used as a means of transportation on the water and shall include but not be limited to inflatable beach toys, rubber inner tubes, rafts and air mattresses.

H. "Mooring buoy" means a buoy placed for the mooring of vessels. Such buoys will be white with a blue stripe on top.

I. "Motorboat" means any vessel propelled in whole or part by machinery, including those temporarily equipped with detachable motors.

J. "Moving water" means a waterway which has a flow of water which can be measured in cubic feet per second.

K. "Navigation lights" means a red port light and a green starboard light and a white stern light visible at a distance of one hundred yards.

L. "Operator" means a person who is in actual physical control or in charge of a vessel when it is in use.

M. "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles them to such possession.

N. "Personal flotation device (PFD)" means life preservers, life vests, flotation rings, buoyant cushions.

O. "Personal watercraft" means a Class "A" inboard vessel, as defined by the U. S. Coast Guard, which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion and is designed to be operated by a person or persons sitting, standing, or kneeling or being towed behind the product, rather than in the conventional manner of boat operation.

P. "Receiving property" means real property within which the maximum permissible noise levels specified in this chapter shall not be exceeded from sources outside such property.

Q. "Safety buoy" means a buoy placed to regulate or control vessel speed or operations as required for the safety of the public.

R. "Sailboat" means any vessel propelled primarily by the wind.

S. "Shoreline" means any existing water line.

T. "Ski or swimming dock" means a manmade platform anchored to the bottom of a body of water.

U. "Sound level" means the weighted sound pressure level measured by the use of a metering

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characteristic and weighted as specified in American Standards Institute Specifications, Section 1.4, 1971.

V. "Use" means to operate, navigate, or employ.

W. "Vessel" means any watercraft used or capable of being used as a means of transportation on the water. This definition shall include, but not be limited to, the following: rowboats, sailboats, motorboats, canoes, kayaks, personal watercraft and hover craft.

X. "Wake speed" means a slow speed producing a wake not to exceed six inches in height at its apex when reaching any shoreline, dock, or manmade structure on the shoreline and further not to exceed five miles per hour in any event.

Y. "Waterway" is any waters, waterway, lake, river, tributary canal, lagoon, or connecting waters within the incorporated boundaries of the City of Spokane. (Ord. C-30459)

10.14.020 Authority to Board.

Any law enforcement officer is hereby given the authority to board any vessel found underway in the waters of the City of Spokane for the purpose of inspection and enforcement of this chapter only. (Ord. C-29112)

10.14.030 Emergency Vessels.

All vessels operating on the waterways of the City of Spokane shall yield the right-of-way to law enforcement vessels displaying a bright flashing blue light and siren. (Ord. C-29112)

10.14.040 Especially Hazardous Conditions.

A. If a law enforcement officer observes a vessel being used without sufficient lifesaving or fire-fighting devices or in an overloaded or other unsafe condition as defined in this chapter, and in his judgement such use creates an especially hazardous condition, he may direct the operator to take whatever immediate and reasonable action may be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and remaining there until the situation creating the especially hazardous condition is corrected or ended.

B. For the purpose of this chapter, "other unsafe condition" means a boat which:

1. does not display navigation lights when required (sunset to sunrise); or
2. has fuel leakage from the engine or fuel system; or

3. has an accumulation of fuel in the bilges or a compartment other than a fuel tank; or

4. does not have a serviceable flame arrester when required; or

5. does not meet the ventilation requirements for fuel tanks and engine spaces.

C. If the vessel is a for-hire vessel from a boat livery, it shall be the obligation of the lessee to insure proper vessel loading and that all safety equipment required by this chapter is present. (Ord. C-29112)

10.14.050 Accident Reporting.

A. In the case of a boating accident, it shall be the duty of the operator, if he can do so without serious danger to the operator's own vessel, to himself or other persons on board, to render all practical and necessary assistance that may be necessary to other persons affected by such boating accident. Under no circumstances may the rendering of assistance or other compliance with this section be evidence of the liability of such operator for the accident.

B. Any person who complies with subsection A of this section or who gratuitously and in good faith renders assistance at the scene of a vessel accident, without objection of any person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance where the assisting person acts as any reasonably prudent person would have acted under the same or similar circumstances.

C. Every accident involving a vessel on any waterway in which there is personal injury or death or damage to property in excess of two hundred dollars shall be reported to the Spokane County Sheriff by the vessel operator unless deceased, in which instance a passenger in the vessel, if any, shall have such duty. The Spokane County Sheriff shall provide forms upon which the report shall be rendered.

D. When as a result of an occurrence that involves a vessel or its equipment a person dies or disappears from a vessel, the operator, unless deceased, in which instance a passenger, if any, shall without delay notify the Spokane County Sheriff of the

1. date, time and exact location of the occurrence;
2. name of each person who dies or disappears;

3. number and/or name of the vessels involved;

4. names and addresses of the owner and operator of each vessel or vessels involved. (Ord. C-29112)

10.14.060 Personal Flotation Devices (PFD).

A. Performance requirements for PFD's (adult size) are as follows:

1. Type I PFD is a device designed to turn an unconscious person in the water from a face downward position to a vertical or slightly backward position and have at least twenty-two pounds of buoyancy.

2. Type II PFD is a device designed to turn an unconscious person in the water from a face downward position to a vertical or slightly backward position and have at least fifteen and one-half pounds of buoyancy.

3. Type III PFD is a device designed to keep a conscious person in the water in a vertical position and to have at least fifteen and one-half pounds of buoyancy.

4. Type IV is a device designed to be thrown to a person in the water and is not designed to be worn. It is designed to have at least sixteen and one-half pounds of buoyancy.

B. Every vessel less than sixteen feet in length shall have at least a Type IV PFD for every occupant, except that:

1. Canoes, kayaks, personal watercraft and similar type vessels will have at least a Type III PFD worn by the occupant/operator.

2. Persons engaged in water skiing, aquaplaning or similar activity shall have a Type I, II, or III PFD worn when engaged in such activity, or a wetsuit specifically designated by a manufacturer for that purpose and capable of floating the water skier.

C. Every vessel greater than sixteen feet in length shall have at least one Type I, II, or III PFD for every occupant. Except for canoes or kayaks, each vessel shall have one Type IV PFD in addition to the other PFD's required.

D. All PFD's must be in serviceable condition and of appropriate size for the person wearing it.

E. All PFD's must be readily accessible in case of an emergency.

F. All persons under seven years of age shall wear at least a Type III PFD of an appropriate size any time they are on any waterways.

G. Every operator and person on a vessel on moving water shall wear a Type I, II, or III PFD.

H. Every person on a flotation device on moving water shall wear a Type I, II, or III PFD. (Ord. C-30459)

10.14.070 Lighting.

A. Every non-motorized vessel that is underway after sunset and before sunrise shall have a lantern or flashlight capable of emitting a white light which shall be temporarily displayed as needed in sufficient time to prevent a collision.

B. Every motorized vessel less than twenty-six feet in length that is underway after sunset and before sunrise shall be equipped with the following lights:

1. a bright white light aft to show all around the horizon (thirty-two points of the compass) and be visible for two miles;

2. a combination light in the forepart of the vessel that is lower than the white light aft. The combination light, which shows green to starboard and a red to port, is fixed to throw the light from dead ahead to two points abaft the beam on respective sides and shall be visible for a distance of one mile. (Ord. C-29112)

10.14.080 PFD Requirements for Commercial Vessels.

A. Every commercial vessel less than forty feet in length shall have at least one Type I, II, or III for each occupant of the vessel.

B. Every commercial vessel that carries passengers for hire or any commercial vessel that is greater than forty feet in length shall have at least one Type I PFD for each occupant.

C. Every PFD must be in serviceable condition and the appropriate size for the person wearing it.

D. All PFD's must be readily accessible in case of emergency. (Ord. C-29112)

10.14.090 Ventilation on Motorboats.

A. Every motorboat, except open motorboats which use fuel having a flash point of less than one hundred degrees Fahrenheit, shall have at least two ventilator ducts, fitted with cowls or their equivalent, for the efficient removal of explosive or flammable gases from bilges of every engine and fuel-tank compartment. There shall be at least one exhaust duct installed so as to extend to a point at least midway to the bilge or at least below the level of the carburetor air intake. The cowls shall be located and trimmed

for maximum effectiveness so as to prevent displaced fumes from being recirculated.

B. Open motorboats are not required to be ventilated if:

1. All engine, fuel-tank compartment, and other spaces to which explosive or flammable gases and vapors from these compartments may flow are open to the atmosphere and so arranged as to prevent the entrapment of such gases and vapors within the vessel; and

2. Engine and fuel tank compartment shall have as a minimum fifteen square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume; and

3. There must be no long or narrow unventilated spaces accessible from such compartments in which a flame front could propagate; and

4. Long, narrow compartments (such as side panels) if joining engine or fuel compartments and not serving as ducts thereto, shall have at least fifteen square inches of open area per cubic foot provided by frequent opening along the full length of the compartment formed.

C. Motorboats that contain fuel tanks that vent to the outside of the boat are exempt from the requirements of subsection A of this section to ventilate the fuel-tank compartment. (Ord. C-29112)

10.14.100 Flame Arrester

A. Every vessel equipped with an inboard engine installed after April 24, 1940, shall be equipped with a back-fire flame arrester except:

1. engines accepted for use without a flame arrester and so labeled by the United States Coast Guard;

2. where the location of the engine will dispense back-fire flame to the open atmosphere clear of the vessel, persons on board, nearby vessels, and structures.

B. Flame arresters must be in serviceable condition, securely mounted with flame-tight connections and have no separation of the grid elements. (Ord. C-29112)

10.14.110 Fire Extinguishers

A. Motorboats less than twenty-six feet long shall have one Coast Guard Class B-I or one Class B-II type fire extinguisher if any of the following conditions exist:

1. There is a closed compartment under the thwarts and seats wherein portable fuel tanks may be stored.

2. There are double bottoms not sealed to the hull or which are not completely filled with flotation material.

3. There are closed living spaces.

4. There are closed storage compartments in which combustible or flammable materials are stowed.

5. There is a permanently installed fuel tank.

B. Every motorboat greater than twenty-six feet in length but less than forty feet in length will have at least two United States Coast Guard approved Type B-I fire extinguishers or one United States Coast Guard approved Type B-II fire extinguisher.

C. Every motorboat greater than forty feet in length but less than sixty-five feet in length shall have at least three United States Coast Guard approved Type B-I and one United States Coast Guard approved Type B-II fire extinguisher.

D. If a motorboat has an approved fixed fire extinguisher in the engine compartment, it may be substituted for one Type B-I fire extinguisher otherwise required by this chapter. (Ord. C-29112)

10.14.120 Prevention of Noise and Smoke.

A. Every motorboat shall at all times be equipped with a serviceable muffler or other similar device to reduce the sound of engine exhaust, and no person shall use a cutout bypass or similar device upon any motorboat used upon any waterway except motorboats exempted by a watercraft test or watercraft racing permit.

B. It is unlawful for any person to operate upon any waterway, under any condition of speed, load, acceleration, or deceleration in such manner as to exceed the following:

1. for watercraft and engines manufactured before January 1, 1980, a noise level of 84 dB;

2. for watercraft and engines manufactured after January 1, 1980, a noise level of 82 dB;

3. for watercraft and engines manufactured after January 1, 1984, a noise level of 80 dB.

Such measurements shall be taken by a sound level meter at a distance of not less than fifty feet from the motorboat being operated.

C. It is unlawful for any person to operate upon any waterway any motorboat, between one-half hour after sunset and seven am, which motorboat exceeds 64 dB as measured by a sound level meter at a distance of not less than fifty feet from the motorboat being operated.

D. It is unlawful for any person to operate upon any waterway any motorboat which exceeds 74 dB at the shoreline or anywhere within a receiving property. At any hour of the day and between sunset and sunrise, the limit for a receiving property shall be 64 dB, provided such property is a Class A EDNA as defined by WAC 173-70-030 (4) (a) (residential or recreation area).

E. The following types of sounds shall be exempt from this section:

1. sounds created by safety and protective devices where noise suppression could defeat the intent of the device;
2. sounds created by a warning device not operating continuously for more than five minutes;
3. sounds created by emergency equipment for emergency work necessary in the interest of law enforcement for the health, safety, and welfare of the community;
4. sounds created by the operation of commercial nonrecreational motor-powered craft. These commercial activities include but are not limited to pile driving, operation of a marina, transportation of logs, fishing, and ferries.

F. No person shall sell or offer for sale a new watercraft or new watercraft engine for use in any existing watercraft which exceeds the following maximum noise limits when measured according to the procedures of the society of automotive engineer's recommended practice SAE-J34:

1. for watercraft and engines manufactured after January 1, 1980, a noise level of 82 dB;
2. for watercraft and engines manufactured after January 1, 1984, a noise level of 80 dB. (Ord. C-29112)

10.14.130 Sound Devices.

A. Vessels less than sixteen feet in length are not required to have a sound-producing device.

B. Vessels that are at least sixteen feet in length but less than twenty-six feet shall have one sound-producing device, either mouth, hand, or power operated, capable of producing a blast of two seconds duration and audible for a distance of one-half mile.

C. Vessels that are at least twenty-six feet in length but less than forty feet in length shall have one sound producing device, either hand or power operated, capable of producing a blast of two seconds duration and audible for a distance of one mile. (Ord. C-29112)

10.14.140 Speed Restrictions

A. No person shall operate a vessel, except for vessels exempted by watercraft testing or racing permit, at a speed greater than fifty miles per hour on any waterway.

B. A vessel shall not exceed five miles per hour or wake speed when within fifty feet of any:

1. safety buoy;
2. dock or pier;
3. stationary vessel;
4. trolling vessel;
5. shoreline;
6. swimmer or marked swimming area;
7. float;
8. scuba dive flag.

C. Between a half hour after sunset and one-half hour before sunrise, all vessels will operate at a speed not to exceed fifteen miles per hour.

D. Every vessel shall, when operating in fog, mist, falling snow, or a heavy rainstorm, operate at a moderate speed, having a careful regard to the existing circumstances and conditions and shall be able to stop one-half the distance of available visibility. (Ord. C-29112)

10.14.150 Vessel Loading.

A. No operator of any vessel shall allow any person to ride or sit on either the starboard or port gunwale, transom, or on the decking over the bow or any attachment thereto while underway or on a cabin top except while in the act of mooring or casting off unless the vessel is provided with adequate guards or railings.

B. No person shall overload a boat beyond its safe carrying capacity rating as stated on a United States Coast Guard capacity information label, taking into consideration weather and other normal operating conditions. Where the safe carrying capacity of a vessel is specified by the manufacturer, such limitation shall be considered the maximum safe loading for the purpose of this section.

C. In the absence of the United States Coast Guard capacity information label or a capacity information label from the vessel manufacturer, the capacity of a watercraft shall be determined by the following method:

Multiply the length of the watercraft in feet and tenths of feet by the width of the boat in feet and tenths of feet. The product shall be divided by fifteen. The result, or if a fraction the next smaller whole number, shall be the maximum capacity of the watercraft in good weather conditions.

$$\frac{L \times W}{15} = \text{Capacity}$$

For the purposes of this section "length" means the distance from stern to bow. "Width" means the distance from port to starboard at its widest point. (Ord. C-29112)

10.14.160 Scuba Diving

A. Persons who are engaging in scuba diving shall mark the area in which such operations are being conducted by the use of a divers' flag, which is red with a white diagonal stripe, at least eighteen by twenty-four inches.

B. If such scuba diving operations are not accompanied by a vessel displaying a divers' flag, a divers' flag must be affixed to a float or similar device so as to be visible for a distance of one hundred yards.

C. If scuba diving operations are to be conducted between the hours of sunset and sunrise, artificially lighted marker buoys shall be provided and shall be visible for at least one hundred yards. (Ord. C-29112)

10.14.170 Water Skiing.

A. Any person who shall operate a vessel which has in tow another person or persons on water skis, aquaplane, or other similar device, and any person who shall operate such water skis, aquaplane, or similar device in tow behind a vessel shall be deemed engaged in water skiing.

B. Any vessel engaged in water ski operations shall have, in addition to the vessel operator, an observer of at least ten years of age on board for the safety of the person or persons in tow.

C. It shall be unlawful to engage in water skiing during the period from one hour after sunset until one hour prior to sunrise.

D. No person or persons shall engage in water skiing within fifty feet of any boat launching ramp, motionless vessel, anchored vessel, trolling vessel, swimmer, safety buoy, or shoreline.

E. Except on take-offs, no person or persons shall engage in water skiing operations between the safety buoy line and the shoreline. Any take-off from within the safety buoy line must be made outward and at right angles to the shoreline. At no time can such take-off cause risk or hazard to other vessels or persons on the water.

F. No vessel shall follow behind a person being towed on water skis, aquaplane, or other similar device closer than three hundred feet, nor cross the towing vessel's bow by less than two

hundred feet, nor come within one hundred feet of the person being towed.

G. The safety buoy line shall not be used as a slalom course.

H. No person shall operate any vessel, tow rope, or other device by which the direction or location of a person on water skis, aquaplane or similar device maybe affected or controlled in such a negligent manner as to endanger or be likely to endanger any person or property.

I. No person shall engage in water skiing while under the influence of any intoxicating liquor, narcotic drug, barbiturate, marijuana, or controlled substance as defined under RCW Chapter 69.50.

J. No person shall operate or permit to be operated any vessel used for towing water skiers or similar devices in which person(s) or objects are being towed above, in, or on any waterway unless it shall have on board and display a warning flag.

1. A warning flag shall be bright red in color, measuring twelve inches on each side, mounted on a handle not less than twenty-four inches long and displayed as to be visible from every direction.

2. When anyone being towed by a vessel becomes disengaged from the tow line and is down in the water, a person in the vessel shall immediately hold the warning flag aloft, visible from all sides, as an indicator to other vessels in the area that a person is down in the water. As long as such person is in the water, the flag shall remain displayed to prevent danger to that person and hazards to passing vessels.

3. Such warning flag shall be displayed only under the conditions set forth in this section or when other imminent dangers exist.

K. Any vessel engaged in water skiing, aquaplaning, or similar activity shall proceed in a counter clockwise direction of travel according to the waterway's topography. (Ord. C-30459)

10.14.180 Operator Age Requirements.

A. No person under the age of ten years shall be allowed to operate a motorboat.

B. Persons ten years of age through sixteen years of age may operate a motorboat of ten horsepower or less, or a motorboat of greater than ten horsepower if under the supervision and control of a person at least eighteen years of age who is also in the vessel and is capable of safely operating such vessel, except that persons under sixteen years of age, who are under the direct

supervision of a person at least eighteen years of age, may operate a motorboat if such vessel is operating as part of an authorized race or competition or has been granted a watercraft test permit. (Ord. C-29112)

10.14.190 Garbage and Sewage.

A. No person shall discharge sewage into any waterway directly or indirectly from any vessel.

B. It shall be unlawful for any person, while on any waterway, to throw or discard into the water any waste, debris, refuse, oil, garbage, or other fluid or solid material which may pollute the water, or which may create or aggravate any conditions deleterious to the public health. (Ord. C-29112)

10.14.200 Safety Buoys

A. The Spokane County Sheriff may designate location and install in the water appropriately marked safety buoys that are required for the safety of the public.

B. It shall be unlawful for any person to relocate, damage, or alter any safety buoy.

C. Any vessel operating within the area between the safety buoy line and the shorelines shall do so at wake speed unless such vessel is departing, or towing a water skier in compliance with subsection 10.14.170.E.

D. It shall be unlawful for any vessel to use a safety buoy for the purpose of mooring or otherwise anchoring such vessel.

E. Mooring buoys shall be placed inside the safety buoy line except that mooring buoys may be placed outside the safety buoy line if such buoys are appropriately marked and illuminated with a bright flashing white light between the hours of sunset and sunrise. It is the responsibility of the owner of the mooring buoy to maintain the light. (Ord. C-29112)

10.14.210 Docks and Booms.

A. Any dock, float, or similar device that extends more than fifty feet from the shoreline or is anchored more than fifty feet from the shoreline shall be marked by a quick flashing white light between the hours of sunset and sunrise.

B. The placement of any floating course designed for water skiing, aquaplaning, personal watercraft, or similar activity shall require a marine permit pursuant to Section 6.03.320 of

the Spokane County Code prior to the course being installed on any waterway.

C. Any floating course shall be required to be marked by a quick flashing yellow light placed in the start gate of the course between the hours of sunset and sunrise. (Ord. C-30459)

10.14.220 Operating a Vessel While Intoxicated Prohibited.

A. No person shall operate any vessel while under the influence of any intoxicating liquor, narcotic drug, barbiturate, marijuana, or any other substance as defined under RCW Chapter 69.50.

B. Determination of intoxication shall be by the same criteria as provided in RCW 46.61.506, or otherwise in the same manner as when an individual is alleged to be under the influence of an intoxicating liquor or drug while operating a motor vehicle. (Ord. C-29112)

10.14.230 Negligent Operation.

No person shall operate a vessel upon any waterway in such a manner to endanger any persons or property. (Ord. C-29112)

10.14.240 Reckless Operation.

No person shall operate a vessel upon any waterway in wilful or wanton disregard for the safety of persons or property. (Ord. C-29112)

10.14.250 Steering and Sailing Rules.

A. The risk of collision can, when circumstances permit, be ascertained by carefully watching the compass bearing of an approaching vessel. If the bearing does not appreciably change, such risk should be determined to exist.

B. When two sailboats are approaching one another, to avoid the risk of collision, one shall keep out of the way of the other as follows:

1. A sailboat which is running free shall keep out of the way of a sailboat which is close hauled.

2. A sailboat which is close hauled on the port tack shall keep out of the way of a sailboat which is close hauled on the starboard tack.

3. When both are running free, with the wind on the same sides, the sailboat which has the wind on the port side shall keep out of the way of the other.

4. When both are running free, with the wind on the same side, the sailboat which is to

the windward shall keep out of the way of the sailboat which is to the leeward.

5. A sailboat which has the wind aft shall keep out of the way of other sailboats. (Ord. C-29112)

10.14.260 Rules and Whistle Signals.

A. 1. When vessels under power are approaching each other head and head, that is, end on end or nearly so, it shall be the duty of each to pass on the port side of the other; and either vessel shall give, as a signal of her intention, one short blast of her whistle, which the other vessel will answer promptly by a similar blast of her whistle, and thereon such vessels shall pass on the port side of each other, but if the course of said vessels are so far on the starboard of each other as not to be considered as meeting head and head, each vessel shall immediately give two short and distinct blasts of her whistle, which the other vessel shall answer promptly by two similar blasts of her whistle, and they shall pass starboard side of each other.

2. The foregoing only applies to cases where vessels are meeting end on, or at nearly end on, in such a manner as to involve risk of collision; that is, to cases in which by day, each vessel sees the masts of the other in a line, or nearly in line with her own, and by night in cases where the red light of one vessel is opposed to the red of the other, or where the green light of one vessel is opposed to the green light of the other, or where a red light without a green light is seen ahead, or where both red and green lights are seen anywhere but ahead.

B. If, the vessels under power are approaching each other, from any course, and either vessel is in doubt, it shall immediately signify the same by giving several short and rapid blasts, not less than four, of the whistle or horn.

C. Whenever a motorboat is nearing a short bend or curve in the channel, where from the height of the banks or other cause a motorboat approaching from the opposite direction cannot be seen for a distance of one-half mile ahead, such motorboat, when she shall give a signal of one long blast of the horn or whistle, which signal shall be answered by a similar blast given by any approaching vessel that may be within hearing. Should such a signal be so answered by a vessel upon the further side of such bend, then the usual signals for meeting and passing shall immediately be given and answered; but if the first alarm signal of such vessel is not answered,

she is to consider the channel clear and govern herself accordingly. When motorboats are moved from their docks or berths, or other boats are liable to pass from any direction toward them, they shall give the same signal as in the case of vessels meeting at a bend but immediately after clearing berths so as to be fully in sight, they shall be governed by the steering and sailing rules.

D. When motorboats are running in the same direction, and the vessel which is astern shall desire to pass on the starboard side of the vessel ahead, she shall give one short blast of the whistle or horn, as a signal of such desire, and if the vessel ahead answers with one blast, she shall direct her course starboard; if she shall give two short blasts of the whistle or horn as a signal for such desire, and if the vessel ahead answers with two short blasts, she shall direct her course to port. If the vessel ahead does not think it safe for the vessel astern to attempt to pass at that point, she shall immediately signify the same by giving short rapid blasts of the whistle or horn, not less than four, and under no circumstances shall the vessel astern attempt to pass the vessel ahead until such time as they have reached a point where it can be safely done, when said vessel ahead shall signify her willingness by blowing the proper signals. The vessel ahead shall in no case attempt to cross the bow or crowd upon the course of the passing vessel.

E. The whistle signals provided for vessels meeting, passing, or overtaking are never to be used except when vessels are in sight of each other and the course and position of each can be determined in the daytime by sight of the vessel itself, or by night by seeing its navigation lights. In fog, mist, falling snow and heavy rainstorms, when vessels cannot see each other, fog signals only shall be given. (Ord. C-29112)

10.14.270 Motorboats Crossing.

When two motorboats are crossing, so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way of the other. (Ord. C-29112)

10.14.280 Sailing Vessel Right-of-Way.

When a motorboat and a sailboat are proceeding in such a direction as to involve risk of collision, the motorboat shall keep out of the way of the sailboat, except when the sailing

vessel is overtaking the motorboat from behind. (Ord. C-29112)

10.14.290 Privileged Vessel Duty.

Whenever under this chapter one of the two vessels is to keep out of the way, the other is to maintain her course and speed. (Ord. C-29112)

10.14.300 Burdened Vessel Duty.

A. Every vessel which is directed by this chapter to keep out of the way of another vessel shall, if the circumstances permit, avoid crossing ahead of the other.

B. Every vessel which is directed by this chapter to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed or stop or reverse. (Ord. C-29112)

10.14.310 Overtaking Vessels.

A. Notwithstanding anything contained in this chapter, every vessel overtaking any other shall keep out of the way of the overtaken vessel.

B. Every vessel coming up on another vessel from any direction more than two points aft her beam, that is, in such a position, with reference

to the vessel which she is overtaking that at night she would be able to see the other vessel's sidelights, shall be deemed to the overtaking vessel, and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of this chapter or relieve her of the duty of keeping clear of the overtaken vessel until she is finally passed and clear.

C. If the overtaking vessel is uncertain whether she is forward or abaft from this direction from the other vessel, she should assume that she is the overtaking vessel and keep out of the way. (Ord. C-29112)

10.14.900 Enforcement.

This chapter, being a parallel ordinance to Chapter 6.03 of the Spokane County Code, and having been ordained for the purpose of allowing officers of the Spokane County Sheriff to enforce one body of boating safety laws on a continuous body of water without regard to municipal boundary lines, shall by mutual agreement between the City and the County of Spokane be enforced by the Spokane County Sheriff. (Ord. C-29112)

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Chapter 10.15

OFFENSES INVOLVING DRUGS

Sections:

- 10.15.010 Findings.
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10.15.010 Findings.

A. The Legislature of the State of Washington, in connection with the passage of Chapter 150, Laws of 1988, has found the illegal use, sale and manufacture of drugs and other drug-related activities to be a state-wide problem.

B. Innocent persons, especially children, who come into contact with illegal drug-related activity within this city and their own neighborhoods are seriously and adversely affected.

C. The city council has been made acutely aware by citizens and citizen groups of this city and by the police department of increased, widespread, illegal drug-related activities occurring throughout the city. (Ord. C-29284)

10.15.020 Loitering for the Purpose of Engaging in Drug-Related Activity.

A. No person may loiter in or near any thoroughfare, skywalk, park, school, or any place open to the public in a manner and under circumstances manifesting a purpose to engage in drug-related activity contrary to any of the provisions of RCW Chapters 69.41, 69.50, or 69.52.

B. No arrest may be made under this section unless the arresting officer first affords the subject an opportunity to explain such conduct. It is a defense under this section that the

explanation given was true and disclosed a lawful purpose.

C. Circumstances which may be considered in determining whether a purpose to engage in drug-related activity contrary to any of the provisions of RCW Chapters 69.41, 69.50, or 69.52 is manifested include, but are not limited to, the following.

1. The person is a known unlawful drug user. A "known unlawful drug user" is a person who

a. has, within the knowledge of the arresting officer, been convicted

i. in any court within this state, including a juvenile court, of any violation involving the use, possession, or sale of any of the substances referred to in Chapters 69.41, 69.50 and 69.52 of the Revised Code of Washington or

ii. of any violation of any of the provisions of said chapters of the Revised Code of Washington or substantially similar laws of

(A) any political subdivision of this state or

(B) any other state; or

b. displays physical characteristics of drug intoxication or usage, such as "needle tracks;" or

c. possesses drug paraphernalia as defined in RCW Chapter 69.50; or

d. has, within the knowledge of the arresting officer, used, possessed, or sold any controlled substance in violation of any of the provisions of RCW Chapters 69.41, 69.50, or 69.52, regardless of whether the person was arrested for such use, possession, or sale.

2. The person is currently subject to an order prohibiting his or her presence in a high drug activity geographic area.

3. The area involved is by public repute known to be an area of unlawful drug use and trafficking.

4. The premises involved are known to have been reported to law enforcement as a place suspected of drug activity pursuant to RCW Chapter 69.53.

5. The person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity, including by way of example only, acting as "lookout."

6. The person is identified by the officer as a member of an association, group, organization, or gang which has illegal drug activity

10.15.020

as one of its significant characteristics, history, or purpose.

7. The person transfers small objects or packages for currency in a furtive fashion.

8. The person takes flight upon the appearance of a police officer.

9. The person manifestly endeavors to conceal himself or herself or any object which reasonably could be involved in an unlawful drug-related activity.

10. The person refuses to identify himself or herself upon request of an identified police officer.

11. There is being used a vehicle, known to be registered to a

a. known unlawful drug user, or

b. person for whom there is an outstanding warrant for a crime involving drug-related activity.

D. In determining whether a person is manifesting a purpose to engage in drug-related activity contrary to any of the provisions of RCW Chapters 69.41, 69.50, or 69.52, the cumulative knowledge of all officers involved may be considered by the arresting officer. (Ord. C-29284)

10.15.030 Penalty.

The penalty for violation of Section 10.15.020 is a fine not to exceed five thousand dollars, or imprisonment for not more than one year, or both such fine and imprisonment, for each offense. (Ord. C-29284)

10.15.040 Chapter Cumulative.

The provisions of this chapter are intended to be cumulative and selective and they do not repeal any other ordinance involving the same subject matter. (Ord. C-29284)

10.15.050 Chapter Severable.

If any provision of this chapter be held invalid, such invalidity shall not affect any other provision, or the application thereof, which can be given effect without the invalid provision or application. Thus, this chapter is declared to be severable. (Ord. C-29284)

10.15.070 Enforcement Policy.

This chapter shall not be enforced or applied in an unlawful discriminatory manner. The police chief shall establish a policy and procedures by February 28, 1989, to ensure that this chapter is

applied in accordance with all applicable constitutional standards. (Ord. C-29284)

10.15.100 Controlled, Counterfeit Substances -- Prohibited Acts.

Except as provided for in subsection RCW 69.50.401(a)(1)(iii) any person found guilty of possession of forty grams or less of marihuana shall be guilty of a misdemeanor.

This section does not apply to offenses defined and punishable under the provisions of RCW 69.50.410. (Ord. C-31705)

Cross-reference: RCW 69.50.401

10.15.110 Drug Paraphernalia -- Prohibited Acts.

A. It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

B. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

C. Any person eighteen years of age or over who violates subsection B of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor.

D. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor. (Ord. C-31705)

Cross-reference: RCW 69.50.412

10.15.120 Sale, Delivery, or Possession of Legend Drug Without Prescription or Order Prohibited -- Exceptions.

A. It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, a physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a

dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, or a veterinarian licensed to practice veterinary medicine, in any province of Canada which shares a common border with the state of Washington or in any state of the United States: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the department of social and health services from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

B. Whoever violates any provision of this chapter shall be guilty of a misdemeanor. (Ord. C-31792)

Cross-reference: RCW 69.41.030

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Chapter 10.19

MISCELLANEOUS OFFENSES

Sections:

- 10.19.010 Swimming in River.
 10.19.020 Vagrancy.
 10.19.030 Trespass on Bridge or Skywalk.
 10.19.040 Failure to Sign -- Failure to
 Appear -- Failure to Respond.

10.19.010 Swimming in River.

A. No person may intentionally enter, swim, dive, or float, with or without a boat, raft, craft, or other flotation device, in or upon the water of the Spokane River at any point between the east line of the Division Street Bridge and the west line of the Monroe Street Bridge.

B. The chief of police may, in accordance with procedures and criteria the chief may from time to time prescribe, grant permits for a person or persons to be in that portion of the Spokane River known as the forebay, being the south channel between Havermale Island and the south bank.

C. The fact that a person is wearing or in possession of swimming, diving, or flotation gear or equipment on the bank of the river in the prohibited portion is sufficient ground for an arrest for attempt under this section and shall be prima facie evidence of intent. (Based on Ord. C-24874, §§ 1, 2, 8, 9; Ord. C-29692)

10.19.020 Vagrancy.

No person may:

A. ask for or receive compensation, gratuity, or reward for practicing fortunetelling, palmistry, or clairvoyance;

B. keep premises where lost or stolen property is concealed;

C. solicit money or anything of value on public property without a license as provided in Chapter 10.42; or

D. lodge in any building or vehicle without the permission of the owner or other person in possession. (Ord. C-27431)

10.19.030 Trespass on Bridge or Skywalk.

A. No person may stand, walk, sit upon, or climb upon any portion of a bridge or skywalk not intended for such use. Such portions include, but are not limited to, the roof or outside parts of a skywalk, railings and supporting structures of a bridge or skywalk.

B. This section does not apply to authorized maintenance or repair personnel engaged in maintenance, repair, or modification activities. (Ord. C-28629)

10.19.040 Failure to Sign -- Failure to Appear -- Failure to Respond.

A. No person may refuse to sign a citation when lawfully requested to do so by a person authorized to issue such citation. Failure to sign a citation subjects the person to immediate arrest.

B. 1. No person who has made a written and signed promise to appear in court on a criminal violation may wilfully fail to so appear.

2. No person who has made a written and signed promise to respond to a notice of infraction may wilfully fail to so respond.

3. No person who has been issued a notice of infraction may wilfully fail to respond.

C. A person violating subsection B of this section commits a violation regardless of the disposition of the charge upon which he or she was originally arrested and regardless of the disposition of the notice of infraction. (Ord. C-29256)

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Chapter 10.20

PENALTY

Sections:

- 10.20.010 General Penalty.
10.20.020 Abatement of Nuisance.

10.20.010 General Penalty.

A person found guilty of violating any provision of Title 10, Division I of this code is subject to a maximum penalty of imprisonment in jail for one year and a fine of five thousand dollars for each offense or for each day of a continuing violation, except as otherwise provided. (Ord. C-28629; Ord. C-31589)

Cross-reference: Section 1.02.950; RCW 3.20.040

10.20.020 Abatement of Nuisance.

A. In addition to the procedures for warrants of abatement provided in Chapter 7.48 RCW, the Spokane Municipal Court has jurisdiction, by way of suspended or deferred sentence, to require a person found guilty of a nuisance to abate the same. It may also direct the confiscation and disposition of any animal or other personal property involved.

B. 1. Proceedings to abate a nuisance as described in Section 10.08.040 or 12.02.0208 are initiated by resolution of the city council, adopted after not less than five days' notice to the owner of the property. The resolution describes the property involved and the hazardous condition and requires the owner to abate the nuisance within the time fixed therein after notice of the resolution is given.

2. If the nuisance condition is not abated after notice is given, the City may abate the same and all costs, fees and expenses thereof shall be a charge against the owner and a lien against the property.

3. Notice of the lien herein authorized is, as nearly as practicable, in substantially the same form, filed with the same officer, within the same time and manner, and enforced and foreclosed, as is provided by law for liens for labor and materials.

C. Nothing in this code is a limitation upon the power of the City to declare a nuisance and abate the same without resort to the courts and to impose fines or penalties upon persons who create, maintain, or permit nuisances. (Ord. C-30437)

